

**LIFE ESIDIMENI ARBITRATION**

**HELD AT: EMOYENI CONFERENCE CENTRE, 15 JUBILEE ROAD,  
PARKTOWN, JOHANNESBURG**

**DATE: 9<sup>th</sup> NOVEMBER 2017 DAY ???**

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**DAY??? SESSION 1 – 3.**

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**BEFORE ARBITRATOR – JUSTICE MOSENEKE**

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**WITNESSES:**

**ME. LULEKA LORRAINE KUNJUWA**

**MS ANNA MTHEMBU.**

**JABULILE HLATSHWAYO**

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9 November 2017

**SESSION 1**

**ARBITRATOR, JUSTICE MOSENEKE:** You may be seated. Adv. Hassim. Sure, thank you.

5 **ADV. ADILA HASSIM:** Morning Justice Moseneke.

**ARBITRATOR, JUSTICE MOSENEKE:** Morning Counsel.

**ADV. ADILA HASSIM:** We will be calling Me. Luleka Lorraine Kunjuwa as our first witness today. And she will be testifying in IsiZulu.

**ARBITRATOR, JUSTICE MOSENEKE:** Thank you. And this is the revised  
10 schedule, is it, or was it the same that I had yesterday? I am talking about the schedule of witnesses.

**ADV. ADILA HASSIM:** It is the same.

**ARBITRATOR, JUSTICE MOSENEKE:** It is the same. Okay. Very well. Would  
you place your full name on record please?

15 **ME. LULEKA LORRAINE KUNJUWA:** Luleka Lorraine Kunjuwa.

**ARBITRATOR, JUSTICE MOSENEKE:** I have been informed that you would like  
to testify in IsiZulu.

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** Will the evidence you are about to give be the truth and nothing but the truth? And if so, please raise your right hand and say so help me God.

5 **ME. LULEKA LORRAINE KUNJUWA:** So help me God.

**INTERPRETER:** *...Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** *...Reply...*

**INTERPRETER:** Sworn in, Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** Thank you. Counsel.

10 **ADV. ADILA HASSIM:** Good morning Me. Kunjuwa.

**INTERPRETER:** *...Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** *...Reply...*

**INTERPRETER:** Morning Counsel.

**ADV. ADILA HASSIM:** Can you please tell us what your relationship is to Maureen

15 Kunjuwa?

**INTERPRETER:** *...Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** My sister.

**ADV. ADILA HASSIM:** Your older or younger sister?

**ME. LULEKA LORRAINE KUNJUWA:** She is the first one.

5 **ADV. ADILA HASSIM:** She is the first born?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**ADV. ADILA HASSIM:** And can you tell us what was Maureen's medical and mental health condition?

**INTERPRETER:** ...Interpreting...

10 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** He could not speak and he could not use his hands.

**ARBITRATOR, JUSTICE MOSENEKE:** (Vernac).

**ME. LULEKA LORRAINE KUNJUWA:** She.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Okay, Interpreter, let's try and get that right, please.

**INTERPRETER:** Okay, thank you Justice.

**ADV. ADILA HASSIM:** And do you know why? Do you know what was the cause of her mental disability?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** I don't know, because when we were raised up he was in that condition.

**ADV. ADILA HASSIM:** So she always had a mental disability.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** Yes, she always had that problem. When we speak to her, she would listen, but she was not able to respond.

**ADV. ADILA HASSIM:** And who cared for her?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

15 **INTERPRETER:** When we were staying with her, it was my mother that was taking care of her.

**ADV. ADILA HASSIM:** And when was that?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** We were staying at Germiston at a mine and my father passed on  
5 in 1973, we were chased out of that area, so we were homeless.

**ADV. ADILA HASSIM:** Sorry, just to, you were staying at the mine.

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**ADV. ADILA HASSIM:** Your father was a mine worker?

**INTERPRETER:** ...*Interpreting...*

10 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** He was a male nurse.

**ADV. ADILA HASSIM:** A male nurse.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** After we were chased out, the siblings went to... we others went  
15 to my aunt and the others went to my grandma.

**ADV. ADILA HASSIM:** Sorry, Me. Kunjuwa, when you say the family was chased out, who chased the family?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** It was the mine authorities.

**ADV. ADILA HASSIM:** Okay, continue.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** We did not know where my mother was staying. We used to call my mother monkey.

10 **ME. LULEKA LORRAINE KUNJUWA:** My sister monkey.

**INTERPRETER:** Oh, my sister monkey.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I sometimes prayed even at school, because I was worried, wanting to know about their whereabouts.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Why didn't you know about their whereabouts?

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** We left them at the mine at Germiston and we relocated to Soweto.

**ADV. ADILA HASSIM:** So just so that we understand what happened. You say  
5 that once the family was evicted from the mine.

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**ADV. ADILA HASSIM:** The family split up.

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**ADV. ADILA HASSIM:** And stayed with different family members.

10 **ME. LULEKA LORRAINE KUNJUWA:** Yes, two kids ...intervened.

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I don't know how long was my mum allowed to stay there  
because I was very young, I was only 14 years at the time.

15 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Yes, we were separated, the other two siblings went to my aunt and the other two siblings went to my grandmother.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** My mum remained behind with our property.

5 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** As well as monkey.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** There was no one who was helping her, we don't know how she managed.

10 **ARBITRATOR, JUSTICE MOSENEKE:** Monkey is the same person as Maureen.

**ME. LULEKA LORRAINE KUNJUWA:** The same, yes.

**ARBITRATOR, JUSTICE MOSENEKE:** Mm.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

15 **INTERPRETER:** Like I was saying I was praying even at school, because I wanted to know about her whereabouts.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I went back where we were staying and I found that there were other people staying there.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** And they said now the people who stayed here have relocated  
5 and they directed me to another place.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** We were at Primrose. There were three different mines around that vicinity. My mom was at Primrose.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

10 **INTERPRETER:** I left there and went to Main Deep, it was about 30 minutes' walk. That is where I found my mom and monkey.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** And she was feeding her lunch, the owners of the house were not there.

15 **ADV. ADILA HASSIM:** And when was this?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** 74.

**ADV. ADILA HASSIM:** 1974?

**INTERPRETER:** 1974.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

5 **INTERPRETER:** I did not stay long there because I could see that my mom did not want the owners of the house to find me there in the house.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** In fact I think that she was chasing me away.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

10 **INTERPRETER:** When I went back, I found that she was no longer at Main Deep, she was at another mine, Rose Deep.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** When I arrived there, I am quiet and then they showed me another house. I found that they were squatting at that place. They did not have a  
15 proper place to sleep.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** My mom was very strict.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** You were not going to ask her many questions.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

5 **INTERPRETER:** When I am there, I will just sit and be happy that I have seen them.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Even there I did not stay for a long time, because my mum said I must go.

10 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** That was the kind of life that I was living. Because every time I get a chance I will go and check them.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

15 **INTERPRETER:** When I went back for the last time, I found that my mum and monkey were not there where I left them for the last time.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** My mom was staying alone at a machine house.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I found her doing cleaning, I don't know whether she was doing that to get the place to sleep.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Well when was this, which year was this?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** 1974.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

10 **INTERPRETER:** I ran away where I was staying at my aunt's place.

**ADV. ADILA HASSIM:** And where was Maureen at this point in time?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

15 **INTERPRETER:** I think that my mom has requested her a place to stay because she was doing these peace jobs.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I ran away from my aunt's place.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I went to nights (?), that is the station after Germiston.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

5 **INTERPRETER:** It was a mining area, it was our relative who just got a house there.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** My mum did not have a place and monkey was a kind of person you cannot leave alone.

10 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** And she went to my aunt's place where she was staying.

**ADV. ADILA HASSIM:** Was she ever admitted to one of the Life Esidimeni facilities?

**ME. LULEKA LORRAINE KUNJUWA:** No, not yet.

15 **INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** Not yet.

**ADV. ADILA HASSIM:** When ...intervened.

**ARBITRATOR, JUSTICE MOSENEKE:** Which year are we now?

**ME. LULEKA LORRAINE KUNJUWA:** Late 74.

**ADV. ADILA HASSIM:** We are still in 1974, Justice.

5 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** At that time she was staying at my aunt's place in Ndeni.

**ADV. ADILA HASSIM:** When was she admitted to the Life Esidimeni facility?

**ME. LULEKA LORRAINE KUNJUWA:** 75.

**ADV. ADILA HASSIM:** 1975.

10 **INTERPRETER:** 1975.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** She was looking for work.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Now the problem was that who was going to take care of monkey.

15 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** As my mom was going around she was doing peace jobs.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** She had this pass book which had this stamp which says Germiston district.

5 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** She would look for work here in Jo'burg and she would find some peace jobs but they would say the stamp on your pass says you must go and look for work in Germiston.

**ARBITRATOR, JUSTICE MOSENEKE:** And which year was this?

10 **INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Early 75.

**ARBITRATOR, JUSTICE MOSENEKE:** (Vernac)

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

15 **INTERPRETER:** My mum wanted work so that she could take care of us. Now the problem was, who was going to take care of monkey.

**ADV. ADILA HASSIM:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** (Vernac).

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I understand that. I want us to talk about the issue which we are  
5 addressing now.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**ADV. ADILA HASSIM:** Justice, I think, if I may just assist, the witness is just  
describing the family circumstances and how Maureen then ended up at Life  
Esidimeni, which was in 1975.

10 **INTERPRETER:** ...Interpreting...

**ADV. ADILA HASSIM:** Perhaps you can tell us for how long she resided at the Life  
Esidimeni facility, Maureen.

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

15 **INTERPRETER:** She was admitted in March 1975.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** We used to go and visit her.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**ADV. ADILA HASSIM:** Okay, before we get there, I know that Justice has asked us to get there, but I just want to ask you, she was at Life Esidimeni for a very long  
5 time.

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**ADV. ADILA HASSIM:** Did the family visit her while she was there?

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Yes, we went to visit her.

10 **ADV. ADILA HASSIM:** And did you ever take her home for visits or to stay with the family for a holiday or anything like that?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Yes, I would go and visit her and sometimes I will call her and I  
15 will ask the people to call her and she would recognise my voice and I would talk to her on the phone.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** It has become a habit because her birthday was in October, we would organise a party and go and fetch her and celebrate her birthday with her.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

5 **INTERPRETER:** In December we will phone three days before.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** So that her doctor can prepare her medication.

**ADV. ADILA HASSIM:** This is every December?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

10 **ADV. ADILA HASSIM:** Are you saying she would go home to the family over the Christmas holiday?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

15 **INTERPRETER:** Yes, we would take her for about three weeks.

**ARBITRATOR, JUSTICE MOSENEKE:** But which daughter were you referring to?

**INTERPRETER:** ...*Interpreting...*

**ARBITRATOR, JUSTICE MOSENEKE:** No, which daughter.

**INTERPRETER:** Daughter, oh sorry.

**ARBITRATOR, JUSTICE MOSENEKE:** No problem.

5 **INTERPRETER:** ...*Interpreting...*

**ARBITRATOR, JUSTICE MOSENEKE:** Or let's start... did you talk about a daughter that would be part or doctor?

**ME. LULEKA LORRAINE KUNJUWA:** Doctor.

**ARBITRATOR, JUSTICE MOSENEKE:** I see. Doctor. I see. Sorry Mr.

10 Interpreter, you were correct.

**INTERPRETER:** Thank you, Chair.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** The doctor will prepare her medication for three weeks.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

15 **INTERPRETER:** My niece would go and fetch her.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** They were using a taxi.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** She would stay at home for three weeks and we were not experiencing any problems.

5 **ARBITRATOR, JUSTICE MOSENEKE:** In 2015 was she still unable to speak?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Yes, she had the same condition.

**ARBITRATOR, JUSTICE MOSENEKE:** Could she eat on her own?

10 **INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Yes, although it was very difficult, but she could eat on her own.

**ARBITRATOR, JUSTICE MOSENEKE:** Could she wash herself?

**INTERPRETER:** ...Interpreting...

15 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** No, it was very difficult for her to wash herself, since the other hand strokes, so it was very difficult to hold a washing rag.

**ADV. ADILA HASSIM:** And you say in 2015 she was still at Life Esidimeni.

**INTERPRETER:** ...*Interpreting...*

5 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes, she was still in Randfontein.

**ADV. ADILA HASSIM:** Did you take her home for Christmas holidays in 2015 as well?

**INTERPRETER:** ...*Interpreting...*

10 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Every December we do a family party, yes, we were at my house.

**ADV. ADILA HASSIM:** And how was Maureen then, how was her health like?

**ME. LULEKA LORRAINE KUNJUWA:** The same.

**INTERPRETER:** ...*Interpreting...*

15 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** He was very-very health, he was very healthy... she was very healthy, sorry.

**ADV. ADILA HASSIM:** And when would you take her back to Life Esidimeni after the Christmas holiday?

5 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** Three days after New Year.

**INTERPRETER:** Three days after New Year.

**ADV. ADILA HASSIM:** So she went back to Life Esidimeni in January 2016, early January.

10 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes that is correct.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** My niece took her back to Life Esidimeni.

15 **ADV. ADILA HASSIM:** And were you informed that she would be moved from Life Esidimeni in 2016?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Like I said I received a SMS before December notifying me about a meeting, but I could not go there, because I was looking after our grandma.

5 **ARBITRATOR, JUSTICE MOSENEKE:** That was in December 2015?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** December 2015. I could not go there because I was looking after my mum.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** In February I got a SMS to say that she was going to be relocated to Takalani on the 1<sup>st</sup> of April.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I could not go because of my mother, because I had to take care of my mother.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Did you have your usual family come together in 2015?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes, Honourable Justice, we did have that and then she went back in January.

5 **ADV. ADILA HASSIM:** In early January she was back at Life Esidimeni, is that what you are saying?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**ADV. ADILA HASSIM:** And then you received a SMS in February.

**ME. LULEKA LORRAINE KUNJUWA:** February, yes.

10 **ADV. ADILA HASSIM:** Saying that Maureen would be moved to Takalani.

**ME. LULEKA LORRAINE KUNJUWA:** Takalani.

**ADV. ADILA HASSIM:** And that she would be moved on?

**ME. LULEKA LORRAINE KUNJUWA:** The 1<sup>st</sup> of April.

**ADV. ADILA HASSIM:** 2016?

15 **ME. LULEKA LORRAINE KUNJUWA:** 2016.

**ADV. ADILA HASSIM:** And was she then moved to Takalani?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I don't know, because I did not respond.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** Though we were happy.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Because we thought she was now nearer home.

**ARBITRATOR, JUSTICE MOSENEKE:** And where were you living then?

**INTERPRETER:** v...*Interpreting...*

10 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Around Zachariah Park.

**ARBITRATOR, JUSTICE MOSENEKE:** Where is Zachariah Park?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

15 **INTERPRETER:** At Lenasia.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** When I went there in June, because my mother was very weak, you know, I must leave her unattended, because sometimes she falls when she is not attended to.

5 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I arrived at about four o'clock ...intervened.

**ADV. ADILA HASSIM:** Where did you arrive?

**ME. LULEKA LORRAINE KUNJUWA:** Takalani.

**ADV. ADILA HASSIM:** Okay.

10 **INTERPRETER:** At Takalani.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** When I arrived at Takalani I was told that here are the sisters in the car, they are going.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

15 **INTERPRETER:** They won't allow me to come in.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** That is where I turned at the gate.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I was surprised, because when I went to visit her at Randfontein, they would welcome me and I would go into the wards.

5 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I did not question that, I just left.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I went back there after three weeks and that depends on whether I did get someone to look after my mum.

10 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** When I arrived there I was very shocked.

**ADV. ADILA HASSIM:** Me. Kunjuwa, was this still June 2016?

**ME. LULEKA LORRAINE KUNJUWA:** End of June.

**ADV. ADILA HASSIM:** End of June.

15 **ME. LULEKA LORRAINE KUNJUWA:** Yes. ...Reply...

**INTERPRETER:** She was very weak, she could not stand on her own.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** In January when they took her back, she could walk on herself because they took a taxi.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

5 **INTERPRETER:** Because I was holding him against the windows there at Takalani because she was very weak.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I made her to balance so that she could not fall.

**ADV. ADILA HASSIM:** Was she staying in a ward at Takalani?

10 **INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** No, on that day I did not ask.

**ADV. ADILA HASSIM:** When you visited her, you visited her outside.

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

15 **ADV. ADILA HASSIM:** They brought her to you.

**ME. LULEKA LORRAINE KUNJUWA:** To the reception.

**ADV. ADILA HASSIM:** To the reception, okay.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** When I was balancing her there on the wall, I decided to take her picture, because I saw that she had lost a lot of weight and it seemed like she

5 looked very dehydrated.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** He was someone like ...intervened.

**ME. LULEKA LORRAINE KUNJUWA:** She was dribbling.

**INTERPRETER:** She was dribbling. So I was surprised on that particular day as to

10 why her mouth was dry.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I was asking, are you okay?

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** He was not responding, he was just saying ah, ah, not saying

15 anything very clear.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** When I called the sister, well I do not know the name of the sister,  
I was told that she is a sister.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I asked what was her problem when she looks like this.

5 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** She said we also don't know, we are also surprised, we are still  
checking, still investigating.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** And I made her sit on the chair.

10 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** It was very difficult because she could not speak.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I was just keeping quiet, looking at her.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

15 **INTERPRETER:** Later on I left the place and I said to myself this is now a very big  
problem, I was coming frequently like after two days, like coming to check her.

**ADV. ADILA HASSIM:** You mean you went to visit her every two days.

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** ...*Interpreting...* Yes Counsel.

**ADV. ADILA HASSIM:** And when you visited her, did you go to where she was  
5 sleeping or did you always meet her in the reception?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** They would bring her at the reception, because we were  
instructed to wait there at the reception.

10 **ADV. ADILA HASSIM:** Was there a visiting area?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** When you get in the gate there is a small office where you sign in  
the register and there is a veranda there. So we would sit there and they will go  
15 and fetch her while sitting under the veranda.

**ADV. ADILA HASSIM:** So you went to see her every two days or so, every other day.

**INTERPRETER:** ...*Interpreting...*

**ADV. ADILA HASSIM:** And how was her condition each time you went to see her?

5 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** It seemed like the condition was worsening.

**ADV. ADILA HASSIM:** And did you ask the staff at Takalani why her condition was getting worse?

10 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes, I did ask the sister.

**ARBITRATOR, JUSTICE MOSENEKE:** What is her name?

**INTERPRETER:** ...*Interpreting...*

15 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** They did mention her name, but I forgot the name.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** When I asked her again, she said we are not sure also whether it is the kidneys, we don't have the doctors here but we are still checking on her.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

5 **INTERPRETER:** When the patient got sick she was transferred to Koos.

**ADV. ADILA HASSIM:** Koos Hospital?

**ME. LULEKA LORRAINE KUNJUWA:** Yes it is Koos and then Baragwanath.

**INTERPRETER:** Yes, Koos and then Baragwanath.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

10 **INTERPRETER:** That is when I found out that they did not have doctors and they did not have medication.

**ARBITRATOR, JUSTICE MOSENEKE:** Who said patients get transferred to the hospital that you just referred to?

**INTERPRETER:** ...Interpreting...

15 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** It is the sister.

**ARBITRATOR, JUSTICE MOSENEKE:** Did she tell you why your sister was not transferred?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** She would say we are still making some check-ups on her.

**ARBITRATOR, JUSTICE MOSENEKE:** No, but did you ask her why is my sister not being referred to hospital?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** She would respond by saying we are still making check-ups, we want to find out what the problem is.

**ADV. ADILA HASSIM:** Did they eventually take her to a hospital?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**ADV. ADILA HASSIM:** When?

15 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I was not writing dates, but I think it was within three weeks.

**ARBITRATOR, JUSTICE MOSENEKE:** She thought she was taken to hospital...

let's get a few details there. In what was she dressed?

**INTERPRETER:** ...*Interpreting...*

5 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** She was wearing a tracksuit and a striped jersey.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** And tekkies without shoelace.

**ARBITRATOR, JUSTICE MOSENEKE:** And was it cold then?

10 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes because it was just after June.

**ARBITRATOR, JUSTICE MOSENEKE:** Did you go and ever look where she slept?

**INTERPRETER:** ...*Interpreting...*

15 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** No, I did not go there.

**ARBITRATOR, JUSTICE MOSENEKE:** Why did you not ask to look?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I did not think about that, because I was worried about her health

5 at that time.

**ARBITRATOR, JUSTICE MOSENEKE:** What medication did she normally take?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Takalani does not provide medication because there are no

10 doctors.

**ARBITRATOR, JUSTICE MOSENEKE:** No but listen to my question. According to your knowledge, what medication did your sister normally take? Did she take any medication?

**INTERPRETER:** ...*Interpreting...*

15 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes, in Randfontein she had medication. ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I know that she was taking medication but I don't know what kind of medication.

**ARBITRATOR, JUSTICE MOSENEKE:** And when she came home for a while with  
5 you, did they tell you what medication she had to take?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** They will tell us that we must give her the tablets in the morning and as well as in the evening – that is all I know.

10 **ARBITRATOR, JUSTICE MOSENEKE:** Now you told us about... now you told us about... did you ask about her health records?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** No, I did not ask.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Did you ask if she was given any medication, at Takalani in particular?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** The sister, every time I ask about that, she would tell me that we do not have doctors here and every time when a patient is sick, we take that patient

5 to Koos – that was the response.

**ARBITRATOR, JUSTICE MOSENEKE:** But did they tell you whether they gave her any medication?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** No.

**ARBITRATOR, JUSTICE MOSENEKE:** Did you ask them?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** No.

15 **ADV. ADILA HASSIM:** When... sorry Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** No, you may proceed, please.

**ADV. ADILA HASSIM:** When you would take Maureen home for a holiday, would Life Esidimeni provide you with the medication?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

5 **INTERPRETER:** Yes.

**ME. LULEKA LORRAINE KUNJUWA:** For three weeks.

**INTERPRETER:** They will give me three weeks' supply.

**ADV. ADILA HASSIM:** For three weeks. And at Takalani they didn't say to you that they were providing her with that medication.

10 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** No.

**ADV. ADILA HASSIM:** Did they tell you that they were not providing any ...intervened.

15 **ME. LULEKA LORRAINE KUNJUWA:** No.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** No, they did not tell me that either. They just said they don't have doctors. Anyone who gets ill will be transferred to the hospital.

**ADV. ADILA HASSIM:** Of course the medication that Maureen was on, was for her health condition. It was chronic medication. She didn't need to see a doctor to take it every day, isn't that right?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** Yes that is correct.

**ADV. ADILA HASSIM:** So you say she was getting progressively more ill.

10 **ME. LULEKA LORRAINE KUNJUWA:** Ja.

**ADV. ADILA HASSIM:** And after three weeks of this condition, they at Takalani took her to hospital.

**ME. LULEKA LORRAINE KUNJUWA:** To Koos.

**INTERPRETER:** ...Interpreting...

15 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Yes, at Koos.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** They said she was vomiting at night.

**ADV. ADILA HASSIM:** And how long was she at Koos?

**INTERPRETER:** ...Interpreting...

5 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** She would be admitted at Koos and then transferred to Bara.

**ADV. ADILA HASSIM:** But did you visit her when she was in Koos Hospital?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

10 **INTERPRETER:** The sister called to say she was vomiting at night and she was taken to Koos and at Koos she was transferred to Bara.

**ADV. ADILA HASSIM:** When she was transferred... just before we move on...

When she was taken to Koos, did they call you to tell you that they are now taking her to hospital?

15 **ME. LULEKA LORRAINE KUNJUWA:** No.

**INTERPRETER:** ...Interpreting... No.

**ADV. ADILA HASSIM:** So how did you know she was there?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** The sister called me the following day.

5 **ADV. ADILA HASSIM:** Okay.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** And indeed when I arrived at Bara, I found that she was indeed admitted.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** At Bara I also went there after the second day and she stayed there for about two weeks.

**ADV. ADILA HASSIM:** And when was this?

**ME. LULEKA LORRAINE KUNJUWA:** 10 days.

**INTERPRETER:** 10 days.

15 **ADV. ADILA HASSIM:** And when was this?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** It was during June/July.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** She would stay for two weeks at Bara.

5 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** The third week she was discharged and back to Takalani.

**ADV. ADILA HASSIM:** And you visited her at Chris Hani Bara.

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** ...Interpreting... Yes.

10 **ADV. ADILA HASSIM:** And what did the doctors tell you at the hospital what was wrong?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** When I asked the nurses at Bara, they will say there is nothing we  
15 can tell you. You must come on Monday at eight o'clock and ask her doctor what is her condition.

**ADV. ADILA HASSIM:** And what did the doctor say? Did you ask the doctor?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I could not go there because I had to take care of my mum. I

5 must make her breakfast and I must give her tablets.

**ADV. ADILA HASSIM:** And what did Maureen look like to you when you visited her at Chris Hani Bara?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** She was recovering when she was at hospital.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** It seemed like the drip was assisting her a lot.

**ADV. ADILA HASSIM:** The drip?

**INTERPRETER:** Yes. ...*Interpreting...*

15 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes.

**ADV. ADILA HASSIM:** So she was there for about 10 days.

**ME. LULEKA LORRAINE KUNJUWA:** 10 days, yes.

**ADV. ADILA HASSIM:** And then she went back to Takalani.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

5 **INTERPRETER:** At Takalani she would stay for a week and after that she would then relapse and then go back to Bara.

**ARBITRATOR, JUSTICE MOSENEKE:** Did she eat solids, solid food at Baragwanath?

**INTERPRETER:** ...Interpreting...

10 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Yes.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**ARBITRATOR, JUSTICE MOSENEKE:** The answer is what? The answer is yes she did but... solid food which had to be mashed, is that it?

15 **ME. LULEKA LORRAINE KUNJUWA:** Yes, but not hard.

**ARBITRATOR, JUSTICE MOSENEKE:** Okay.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** She was staying more at Bara than she was staying at Takalani.

**ADV. ADILA HASSIM:** So how many times did she go to Chris Hani Bara? Are you saying she would go and go back to Takalani and then back again?

5 **ME. LULEKA LORRAINE KUNJUWA:** Yes.

**ADV. ADILA HASSIM:** Repeatedly?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** She would go back and be admitted again.

**ADV. ADILA HASSIM:** And when was the last time that you visited Maureen?

10 **INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** We went there on the 24<sup>th</sup> of September on Heritage Day.

**ADV. ADILA HASSIM:** You went where to see her, where was she?

**ME. LULEKA LORRAINE KUNJUWA:** Takalani.

15 **ADV. ADILA HASSIM:** She was at Takalani.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** It was me, my sister and my niece.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** And when we arrived at Takalani we would register and wait for them to go and fetch her.

5 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** As we were waiting there...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** The lady at reception then went to the sister in the office.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

10 **INTERPRETER:** She went for a very long time.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** She came back with the sister and her sister said Maureen was ill yesterday and she was taken to Koos.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

15 **INTERPRETER:** We don't know whether she is at Chris Hani Baragwanath or Jabulani Hospital.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I started to feel a bit dizzy.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I did not respond, I just sat down.

5 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** My sister and my niece they were standing nearby, they were talking.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I experienced a blackout in my mind for a few seconds.

10 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Because I heard my niece shouting like she was fighting.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** She said that you are not going to tell us that you don't know where she is. She cannot speak. You took her at Koos, you say we must go and

15 look for her. Where must we go and look for her?

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** She is your patient, you must make phone calls right now. Go and find her.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** And I woke up by this noise at the time.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Woke up?

**INTERPRETER:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** What do you mean by that?

**INTERPRETER:** She said that she was feeling dizzy and she sat down. So as she heard the noise or she stood up because of the noise that the niece was making.

10 **ARBITRATOR, JUSTICE MOSENEKE:** Okay.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I said let's sit down so that they can come and explain.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** And the sister went out to go and make a call.

15 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** She went for a very long time. I don't know, maybe she was phoning Jabulani Hospital and Chris Hani Baragwanath Hospital, I am not sure about that.

**ADV. ADILA HASSIM:** And then did they tell you where she was?

5 **ME. LULEKA LORRAINE KUNJUWA:** Yes, in the end. ...*Reply...*

**INTERPRETER:** Yes, eventually we were told that she was at Chris Hani Baragwanath.

**ADV. ADILA HASSIM:** Did you go to ...intervened.

**ME. LULEKA LORRAINE KUNJUWA:** Ward 23.

10 **ADV. ADILA HASSIM:** Ward 23. And did you go to visit her at Chris Hani Bara?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes, it was around past twelve to one, so we went to the restaurant to wait for two o'clock.

15 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** When we arrived at Bara I found that it seems like she had fallen, because she was injured just above her eye.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** At Bara when we were there, you would find some time that they  
5 do not apply lotion, so I would come with skin lotion to apply it and as I was applying  
it, I could see some bruises on her body and on her hip.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** As she was sleeping there, we were speaking to her, but she was  
not responding, she was not answering what we were saying to her.

10 **ADV. ADILA HASSIM:** Was she conscious?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Yes, she was conscious.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

15 **INTERPRETER:** I forgot to mention that as we were going to visit her at Takalani,  
she was no longer able to walk. They were using a wheelchair to move around.

**ADV. ADILA HASSIM:** Okay. And normally she was able to walk herself.

**ME. LULEKA LORRAINE KUNJUWA:** Yes. ...*Reply...*

**INTERPRETER:** I think they took her off the wheelchair, she was standing and maybe that is why she fell.

5 **ARBITRATOR, JUSTICE MOSENEKE:** And did anybody tell you what illness your sister had while she was at Bara?

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** The nurses would respond and say sorry ma'am, we cannot tell you that, you must go and see the doctor.

10 **ARBITRATOR, JUSTICE MOSENEKE:** Did you see the doctor and ask the doctor?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** No, I could not because of my mother.

15 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**ADV. ADILA HASSIM:** Sorry, Me. Kunjuwa, on the times that you did visit her at Chris Hani Bara, was the doctor available, did you ask for the doctor?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** Her doctor we were supposed to only come  
5 on Monday eight o'clock.

**ADV. ADILA HASSIM:** Okay.

**INTERPRETER:** We were supposed to come on Monday.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** She was shaking like she was having some fits and that is the  
10 condition that she never had before that.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** She stayed there for three weeks and then went back to Takalani.

**ARBITRATOR, JUSTICE MOSENEKE:** And when you went to Takalani, tell us  
more about the place, how did it look like?

15 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Well it was okay but it was not the same as the one in Randfontein.

**ARBITRATOR, JUSTICE MOSENEKE:** And you still never saw where she slept?

**INTERPRETER:** ...*Interpreting...*

5 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I am sorry, I forgot. We did once go on Sunday with my sister.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** And we went into the ward.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** It was for the first time and we found that there were many beds in that ward.

**ARBITRATOR, JUSTICE MOSENEKE:** How many people were in the ward?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

15 **INTERPRETER:** I am not sure because it was beds on the other side and on the other side. I think I can estimate to say there were 10 on each side.

**ARBITRATOR, JUSTICE MOSENEKE:** Were there men and women or women only?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** Yes, it was women only.

**ADV. ADILA HASSIM:** So men and women were in separate wards.

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** Yes.

**ADV. ADILA HASSIM:** And was it clean?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** Well so far.

**ADV. ADILA HASSIM:** And did you... sorry Justice.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Yes this is your course, you go ahead.

**ADV. ADILA HASSIM:** Did you go to the kitchen?

**ME. LULEKA LORRAINE KUNJUWA:** No.

**ADV. ADILA HASSIM:** Did you go to any other parts of Takalani?

**INTERPRETER:** ...*Interpreting*...

**ME. LULEKA LORRAINE KUNJUWA:** No, only the bathroom.

5 **ADV. ADILA HASSIM:** The bathroom?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**ADV. ADILA HASSIM:** And what was the condition of the bathroom?

**ME. LULEKA LORRAINE KUNJUWA:** It was fine.

**ADV. ADILA HASSIM:** Was it the bathroom for the patients?

10 **ME. LULEKA LORRAINE KUNJUWA:** Yes. Two showers and two toilets.

**ADV. ADILA HASSIM:** And it was clean.

**ME. LULEKA LORRAINE KUNJUWA:** Mm.

**ADV. ADILA HASSIM:** Was there soap?

**ME. LULEKA LORRAINE KUNJUWA:** I didn't see soap.

15 **ADV. ADILA HASSIM:** When you visited Maureen at Takalani, did you take food  
for her?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** She was no longer eating there, so we would bring her mageu (?).

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** I was afraid to take yogurt because I thought that maybe she might have a runny tummy.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** When she was drinking this mageu (?), you will find that it seems like it was very painful when she swallowed.

10 **ADV. ADILA HASSIM:** Was she eating when she was at Takalani? Did she get three meals a day, two meals?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes, when I asked them, they would say yes, they were eating  
15 proper meals.

**ADV. ADILA HASSIM:** When you asked the staff?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes that is correct, Counsel.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** Asking the sister.

**ADV. ADILA HASSIM:** And on this occasion when you went into the ward, you said she was at Chris Hani Bara for about three weeks and then back to Takalani.

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**ADV. ADILA HASSIM:** Am I right that by now we are in end of September or where

10 are we?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** When I saw the bruises, it was before the last visit.

15 **ADV. ADILA HASSIM:** Sorry, the question ...intervened.

**INTERPRETER:** She did not stay even for a week.

**ADV. ADILA HASSIM:** Where.

**ME. LULEKA LORRAINE KUNJUWA:** Takalani.

**INTERPRETER:** At Takalani.

**ADV. ADILA HASSIM:** After coming back from Chris Hani Bara?

5 **ME. LULEKA LORRAINE KUNJUWA:** Yes.

**ADV. ADILA HASSIM:** I am trying to establish at what time in 2016 this was. Was this September, October?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** She went back to Takalani on the 14<sup>th</sup> of October.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** And they called to say she was readmitted to the hospital.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I'll go and see her every second day there.

15 **ARBITRATOR, JUSTICE MOSENEKE:** But Counsel, shouldn't we go to the (inaudible - talking simultaneously).

**ME. LULEKA LORRAINE KUNJUWA:** That was the last admission.

**ADV. ADILA HASSIM:** Was that the last admission? What was the date on which  
Maureen passed away?

**INTERPRETER:** ...*Interpreting...*

5 **ME. LULEKA LORRAINE KUNJUWA:** Monday 24<sup>th</sup>.

**ADV. ADILA HASSIM:** Of?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** 24 October, it was on a Monday.

10 **ADV. ADILA HASSIM:** 24 October 2016.

**ME. LULEKA LORRAINE KUNJUWA:** 2016.

**INTERPRETER:** 2016, yes.

**ADV. ADILA HASSIM:** And where did she die?

**INTERPRETER:** ...*Interpreting...*

15 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** At Chris Hani Baragwanath Hospital, I think it was at ward 23.

**ADV. ADILA HASSIM:** And when were you informed that Maureen had passed away?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** They called me on Tuesday.

**ME. LULEKA LORRAINE KUNJUWA:** Half past 10.

**ADV. ADILA HASSIM:** What was the date?

**ME. LULEKA LORRAINE KUNJUWA:** 25.

**ADV. ADILA HASSIM:** On 25 October. And what did they say... who called you?

10 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I was called by this particular sister.

**ADV. ADILA HASSIM:** And what did she tell you?

**INTERPRETER:** ...*Interpreting...*

15 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** She called and said did you hear that Cathalia (?) has passed on.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**ADV. ADILA HASSIM:** Sorry, who had passed on?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** Cathalia.

5 **ADV. ADILA HASSIM:** Is that the same as Maureen?

**ME. LULEKA LORRAINE KUNJUWA:** Maureen, yes.

**ADV. ADILA HASSIM:** ...Reply...

**INTERPRETER:** My mum had registered that name, Cathalia, at the hospital.

**ADV. ADILA HASSIM:** At the hospital.

10 **INTERPRETER:** Yes.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** She passed on Monday half past 5 and she called on Tuesday half past 10.

**ADV. ADILA HASSIM:** Did you ask her why she waited one day to call you?

15 **INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I did not ask her, because I was very angry at that time.

**ADV. ADILA HASSIM:** Why were you angry?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** The fact that she was going in and out of the hospital.

**ADV. ADILA HASSIM:** What did you do then? Did you go to collect Maureen from the hospital?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** Yes, I called my family. I waited for my sister and we went there the following day on Wednesday.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** We went to Bara, going to fetch her body.

**ADV. ADILA HASSIM:** Did they tell you what was the cause of death?

15 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** At the mortuary they don't tell you, they just give you a death certificate.

**ADV. ADILA HASSIM:** Me. Kunjuwa, there should be, I don't know whether that file is file 11 that is in front of you.

5 **INTERPRETER:** ...*Interpreting...*

**ADV. ADILA HASSIM:** Could you please turn to page 3848?

**INTERPRETER:** Please come again, Counsel, 3?

**ADV. ADILA HASSIM:** 3848.

**INTERPRETER:** 3848. Yes Counsel.

10 **ADV. ADILA HASSIM:** Is that Maureen's death certificate?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes Counsel.

**ADV. ADILA HASSIM:** And it records the death of date as 24 October 2016, is that  
15 right?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** ...*Interpreting...* Yes that is correct.

**ADV. ADILA HASSIM:** And the cause of death as natural causes.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** Yes, I see that.

**ADV. ADILA HASSIM:** And if you turn then to page 3852

**INTERPRETER:** Yes Counsel.

**ADV. ADILA HASSIM:** This is the fourth page of a document that is called notice of death.

10 **INTERPRETER:** ...*Interpreting...*

**ADV. ADILA HASSIM:** You see the document?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** ...*Interpreting...* Yes, I see that.

**ADV. ADILA HASSIM:** This is a document that provides all of the details regarding  
15 the circumstances of the death, the particulars of the deceased and so on.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Yes.

**ADV. ADILA HASSIM:** And at page 3852.

**INTERPRETER:** 3852. Is it the same page, Counsel?

5 **ADV. ADILA HASSIM:** Same page.

**INTERPRETER:** Okay.

**ADV. ADILA HASSIM:** There is a paragraph number 77, that has the heading causes of death. Do you see it?

**INTERPRETER:** ...Interpreting...

10 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Yes.

**ADV. ADILA HASSIM:** And there are several things that I noted, handwritten notes. The first thing is immediate cause of death.

**INTERPRETER:** ...Interpreting...

15 **ADV. ADILA HASSIM:** And it says immediate cause of death was Neuroglysopenic brain injury.

**INTERPRETER:** ...*Interpreting...*

**ADV. ADILA HASSIM:** Did anybody explain to you what that means?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** No, they did not explain. At the mortuary they did not explain this.

**ADV. ADILA HASSIM:** So you don't know what that means, Neuroglycopenic brain injury.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** I just saw brain injury and I thought well that was the time when she fell.

**ADV. ADILA HASSIM:** And then underneath that is written sepsis.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

15 **INTERPRETER:** Yes, I see that.

**ADV. ADILA HASSIM:** Underneath immediate causes, sepsis. And underneath that is the word epileptic as the underlying cause.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** Yes, I see that.

**ADV. ADILA HASSIM:** Was Maureen epileptic?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** No, she never had that condition.

10 **ADV. ADILA HASSIM:** In part two it says: Other significant conditions contributing to death, but not resulting in underlying cause given in part one. And there it is written cerebral palsy.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

15 **INTERPRETER:** Yes, I see that.

**ADV. ADILA HASSIM:** That was the condition that Maureen suffered from.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I don't know what cerebral palsy means.

**ADV. ADILA HASSIM:** Basically what this explaining is that she had cerebral palsy

5 but that was not the cause of the death, it was her underlying condition. The immediate cause was Neuroglycopenic brain injury.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes Counsel.

10 **ADV. ADILA HASSIM:** And you say it was never explained to you what that means.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** No, it wasn't.

15 **ARBITRATOR, JUSTICE MOSENEKE:** What day do you think she fell?

**INTERPRETER:** ...*Interpreting...*

**ARBITRATOR, JUSTICE MOSENEKE:** You earlier talked about her falling and her having an injury on the side of her body.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** I think maybe she was in the bathroom.

**ARBITRATOR, JUSTICE MOSENEKE:** At which place?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** At Takalani.

10 **ARBITRATOR, JUSTICE MOSENEKE:** You said earlier that she could never wash herself.

**INTERPRETER:** ...*Interpreting...*

**ARBITRATOR, JUSTICE MOSENEKE:** She never could wash herself.

**ME. LULEKA LORRAINE KUNJUWA:** No.

15 **ARBITRATOR, JUSTICE MOSENEKE:** She could not wash herself.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Even when she went to the bathroom, she needed to be accompanied.

**ARBITRATOR, JUSTICE MOSENEKE:** The question is about washing herself.

5 Did she always need somebody to help wash her?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Yes and going to the bathroom as well.

**ARBITRATOR, JUSTICE MOSENEKE:** Did you ask the sisters how and when did

10 she fall?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** No, I did not ask them.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

15 **INTERPRETER:** Because I spent three weeks going to see her at Bara. So when I went back to Takalani I even forgot to ask them how did she fall.

**ARBITRATOR, JUSTICE MOSENEKE:** Ja but you say when you got there you saw bruises on the side of her body and head. Didn't you ask how did this happen?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** I think she fell at Takalani as she was taken to the hospital.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes, I am asking questions about Takalani. I am saying when you went to Takalani, did you ask the sisters how did she get injured?

**INTERPRETER:** ...*Interpreting...*

10 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** After three weeks when I went to Takalani it had already slipped my mind to ask them as to how she got injured.

**ARBITRATOR, JUSTICE MOSENEKE:** You see, I am asking these questions following on the questions that the advocate asked you.

15 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes Honourable Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** And if you look at the notice of death.

**INTERPRETER:** ...*Interpreting...*

**ARBITRATOR, JUSTICE MOSENEKE:** There is a clear suggestion that she  
5 incurred a brain injury.

**INTERPRETER:** ...*Interpreting...*

**ARBITRATOR, JUSTICE MOSENEKE:** (Vernac)

**INTERPRETER:** Oh sorry, thank you Justice, I thought you said brain injury.

**ARBITRATOR, JUSTICE MOSENEKE:** Let me put it the other way around. The  
10 injury set out there suggests that she may have fallen on her head or side of her  
head.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes that is correct.

**ARBITRATOR, JUSTICE MOSENEKE:** And that there was also sepsis. In other words she must have incurred an injury which led to an open wound that became septic.

**INTERPRETER:** *...Interpreting...*

5 **ARBITRATOR, JUSTICE MOSENEKE:** So asking about her injury was very important to want to know how did your sister get injured.

**INTERPRETER:** *...Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** *...Reply...*

**INTERPRETER:** I am not sure about this sepsis, because when we were putting  
10 lotion on her skin there at the hospital there was no wound.

**ARBITRATOR, JUSTICE MOSENEKE:** She could have bled internally and if there is no antibiotics, then sepsis will develop.

**INTERPRETER:** *...Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** *...Reply...*

15 **INTERPRETER:** Yes that is a possibility.

**ARBITRATOR, JUSTICE MOSENEKE:** But it still startles me, why didn't you ask?

**INTERPRETER:** ...*Interpreting...*

**ARBITRATOR, JUSTICE MOSENEKE:** Just to know how your sister's head was injured.

**INTERPRETER:** ...*Interpreting...*

5 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Like I said that sometimes when you are facing challenges, some things just slip out of your mind.

**ARBITRATOR, JUSTICE MOSENEKE:** Okay let's put it the other way around.

You say she has been in and out of Baragwanath and I asked you every occasion  
10 did you ask the sisters or the doctors what was her illness, you say no. Why didn't  
you ask the doctors and the sisters if you had in fact visited the hospital?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I could not manage to see her doctor. I did not manage to see  
15 her doctor.

**ARBITRATOR, JUSTICE MOSENEKE:** And the sisters, the nurses?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** They did not want to respond.

**ARBITRATOR, JUSTICE MOSENEKE:** And finally what... finally for me at any rate, what do you think killed your sister?

5 **INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** She was not well taken care of like she was at Randfontein.

**ARBITRATOR, JUSTICE MOSENEKE:** Where wasn't she well taken care of?

**INTERPRETER:** ...Interpreting...

10 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** At Takalani.

**ARBITRATOR, JUSTICE MOSENEKE:** What do you think they did not do that they should have done?

**INTERPRETER:** ...Interpreting...

15 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** The treatment.

**ARBITRATOR, JUSTICE MOSENEKE:** What treatment?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Just taking good care of her.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Could you explain what you mean by that?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Because she changed in a very short period of time.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** I think that she was not well fed, because she has lost a lot of weight.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I also think maybe the issue of her treatment also exacerbated the situation.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Thank you Counsel.

**ADV. ADILA HASSIM:** Me. Kunjuwa, you say that when you first visited her at Takalani you were concerned about her appearance.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** Yes.

**ADV. ADILA HASSIM:** And it was out of this concern that you then visited her every second day.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** Yes that is correct.

**ADV. ADILA HASSIM:** And you asked the staff at Takalani whether they were feeding her and they said they were.

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** ...*Interpreting...* Yes they did.

15 **ADV. ADILA HASSIM:** Did you believe them?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** They said she had a problem with swallowing. She was experiencing some pains in the throat when she was swallowing.

**ADV. ADILA HASSIM:** But did you believe them when they said that they were  
5 feeding, that she was getting at least three meals a day?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I was confused, because she changed in a very short period of  
time. But because they said she was experiencing some pain when she swallowed,  
10 so I thought maybe that was the cause that she could not eat well.

**ADV. ADILA HASSIM:** Did she have pain swallowing before this?

**ME. LULEKA LORRAINE KUNJUWA:** No.

**ADV. ADILA HASSIM:** When she would visit you at home, would she be able to  
eat?

15 **ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** ...Interpreting... Yes Counsel.

**ADV. ADILA HASSIM:** Were you afraid to ask the staff more questions?

**INTERPRETER:** ...*Interpreting...*

**ADV. ADILA HASSIM:** Did you just put your trust in them?

**INTERPRETER:** ...*Interpreting...*

5 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I was asking this sister, because she is the one who was responding to questions and the others would not respond.

**ADV. ADILA HASSIM:** But she didn't give you any information that would help you.

**ME. LULEKA LORRAINE KUNJUWA:** No.

10 **INTERPRETER:** ...*Interpreting...* No.

**ADV. ADILA HASSIM:** I want to stick with this topic of the deterioration in Maureen's condition.

**INTERPRETER:** ...*Interpreting...*

**ADV. ADILA HASSIM:** There are photographs in front of you, perhaps to help us to  
15 understand the picture of what happened.

**INTERPRETER:** ...*Interpreting...*

**ADV. ADILA HASSIM:** Justice Moseneke, the photographs are in the file of exhibits and it is numbered ELAH37A (?), the first one, and there are several.

**ARBITRATOR, JUSTICE MOSENEKE:** I am there, thank you.

**ADV. ADILA HASSIM:** Can you tell us what this photograph is? Is this your family?

5 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** Yes, it is my family.

**ADV. ADILA HASSIM:** Is Maureen in this photograph?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** Yes Counsel.

10 **ADV. ADILA HASSIM:** Which person is Maureen?

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** The second one from the left.

**ME. LULEKA LORRAINE KUNJUWA:** In front.

**INTERPRETER:** In front.

15 **ADV. ADILA HASSIM:** Is she dressed in black?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**ADV. ADILA HASSIM:** When was this photograph taken?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Before 2000.

5 **ADV. ADILA HASSIM:** And where was it taken?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** It was my uncle's birthday.

**ADV. ADILA HASSIM:** And she seems happy in this photograph.

10 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes that is correct.

**ADV. ADILA HASSIM:** Was she a happy person, Maureen?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

15 **INTERPRETER:** Yes indeed Counsel.

**ADV. ADILA HASSIM:** The next photograph ELAH37B, when was this photograph taken?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** Before 2000. It was her birthday at Randfontein.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** We organised a picnic outside on the lawn.

**ADV. ADILA HASSIM:** And is Maureen in this photograph?

**INTERPRETER:** ...*Interpreting...*

10 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes, she is the one who is laughing in the middle with the white shirt, in the front row seated.

**ADV. ADILA HASSIM:** And this was around the same time as the first photograph.

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

15 **INTERPRETER:** Indeed.

**ADV. ADILA HASSIM:** And the third photograph ELAH37C, who is this in this photograph?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** This is monkey the first time when I saw her at Takalani.

**ADV. ADILA HASSIM:** And who took this photograph?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I did.

10 **ADV. ADILA HASSIM:** And this is June 2016, is that correct?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** ...*Interpreting...* Yes that is correct.

**ADV. ADILA HASSIM:** She appears to be thinner in this photograph as compared to the first two that we have seen.

15 **ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** ...*Interpreting...* Yes that is correct.

**ADV. ADILA HASSIM:** And the clothes that she is wearing, is that her clothes?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** These clothes belong to Takalani.

**ADV. ADILA HASSIM:** They belong to Takalani, they are not her clothes. And

5 37D, so 37C is June 2016. 37D who is in this photograph?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** It is her again.

**ADV. ADILA HASSIM:** And is this taken in July 2016?

10 **ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** ...*Interpreting...* Yes that is correct.

**ADV. ADILA HASSIM:** She is wearing a shirt that says Chris Hani Baragwanath  
Hospital.

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

15 **INTERPRETER:** ...*Interpreting...* Yes that is correct.

**ADV. ADILA HASSIM:** Is that where the photograph is taken?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** ...*Interpreting...* Yes.

**ADV. ADILA HASSIM:** Who took this photograph?

**INTERPRETER:** ...*Interpreting...*

5 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I did.

**ADV. ADILA HASSIM:** Why did you take this photograph?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** Because of the way that she was continually changing, I decided to take the picture.

**ADV. ADILA HASSIM:** The next photograph 37E, is this Maureen?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**ADV. ADILA HASSIM:** Where was this photograph taken?

15 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Chris Hani Baragwanath Hospital.

**ADV. ADILA HASSIM:** When was it taken?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** July/August.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Here she looked a bit better.

**ADV. ADILA HASSIM:** And was this taken at the hospital you say.

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

10 **INTERPRETER:** Yes that is correct.

**ADV. ADILA HASSIM:** 37F. It says June/July 2016.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes that was the same day.

15 **ADV. ADILA HASSIM:** Same day. And where was this taken, also at the hospital?

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Yes, also at Chris Hani Baragwanath Hospital.

**ARBITRATOR, JUSTICE MOSENEKE:** Is that you in the picture?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

5 **INTERPRETER:** Yes Honourable Justice.

**ADV. ADILA HASSIM:** 37G. Is this Maureen?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Yes, you can see here that she has lost a lot of weight here.

10 **ADV. ADILA HASSIM:** And when was this photograph taken?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** Before her fall.

**INTERPRETER:** Before her fall.

**ADV. ADILA HASSIM:** Before her fall?

15 **INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** Yes.

**ADV. ADILA HASSIM:** Which month?

**INTERPRETER:** ...*Interpreting*...

5 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply*...

**INTERPRETER:** It was before the 24<sup>th</sup> of September.

**ADV. ADILA HASSIM:** And where was this photograph taken?

**INTERPRETER:** ...*Interpreting*...

**ME. LULEKA LORRAINE KUNJUWA:** Takalani.

10 **INTERPRETER:** At Takalani.

**ADV. ADILA HASSIM:** And the clothes that she is wearing in this picture, are they

...intervened.

**ME. LULEKA LORRAINE KUNJUWA:** Takalani's.

**ADV. ADILA HASSIM:** Belongs to Takalani.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Were the clothes clean?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** Yes Justice.

**ADV. ADILA HASSIM:** The last photograph is 37H. Is this Maureen in the photograph?

**INTERPRETER:** ...*Interpreting...*

5 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes.

**ADV. ADILA HASSIM:** When was this photograph taken?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** A week before she passed on.

**ADV. ADILA HASSIM:** And it was taken at Chris Hani Bara Hospital.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** Yes Counsel.

15 **ADV. ADILA HASSIM:** And who took this photograph?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I did.

**ADV. ADILA HASSIM:** And in this photograph she appears not to have as much hair and she is much thinner.

5 **INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Yes that is correct.

**ADV. ADILA HASSIM:** And this was soon before she passed away.

**INTERPRETER:** ...Interpreting...

10 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Yes that is correct.

**ADV. ADILA HASSIM:** The photographs show a very marked deterioration in her appearance.

**INTERPRETER:** ...Interpreting...

15 **ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** Yes.

**ADV. ADILA HASSIM:** And why do you think this was? Why did this happen over a period of a few months?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** Because she was transferred from the place where she was staying and she was taken to a place where it was inappropriate.

**ADV. ADILA HASSIM:** When was Maureen laid to rest?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** She passed on Monday and she was buried on Saturday.

**ARBITRATOR, JUSTICE MOSENEKE:** At the funeral parlour when the death notice was completed, did you see it? Did you see its contents?

**INTERPRETER:** ...*Interpreting...*

**ARBITRATOR, JUSTICE MOSENEKE:** Let me tell you what the question is about.

15 The first part appears to have been completed at Baragwanath which sets out the immediate cause of death and the underlying causes of death.

**INTERPRETER:** ...*Interpreting...*

**ARBITRATOR, JUSTICE MOSENEKE:** I am sorry, I should have said Chris Hani Baragwanath Hospital.

**INTERPRETER:** Thank you Justice.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Did you see the details that were written there in the first part of the death notice form?

**INTERPRETER:** ...*Interpreting...*

**ARBITRATOR, JUSTICE MOSENEKE:** And it is not a trick question. All I wanted to know is, did you think of asking for a post-mortem examination?

10 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** When I saw this form and I saw this brain injury written here.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** I just thought she got this injury at the time she fall.

15 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** That is why I did not request a post-mortem.

**ADV. ADILA HASSIM:** Sorry Justice, I was just asking about the burial.

**ARBITRATOR, JUSTICE MOSENEKE:** Oh yes, please go ahead. I have seen the invoice.

**ADV. ADILA HASSIM:** You've seen the invoice.

5 **ARBITRATOR, JUSTICE MOSENEKE:** In the record.

**ADV. ADILA HASSIM:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** But please place that on record. Go ahead.

**ADV. ADILA HASSIM:** It is on page 3855 of volume 11. And is this the funeral  
10 undertaker that you used?

**INTERPRETER:** *...Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** *...Reply...*

**INTERPRETER:** Yes that is correct.

**ADV. ADILA HASSIM:** Tabedisano (?) Burial and Funerals.

15 **INTERPRETER:** *...Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** *...Reply...*

**INTERPRETER:** Yes that is correct.

**ADV. ADILA HASSIM:** And who paid for the burial?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** I have a funeral policy with the undertaker and she was covered under my policy.

**ADV. ADILA HASSIM:** And were there any other expenses associated with the funeral?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

10 **INTERPRETER:** ...*Interpreting...* Yes, indeed, Counsel.

**ADV. ADILA HASSIM:** Can you tell us what those expenses were?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

15 **INTERPRETER:** There are so many expenses for a funeral. So the family came together.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** And each one will contribute and each one will say what she is willing to contribute.

**ADV. ADILA HASSIM:** To contribute towards ...intervened.

**ME. LULEKA LORRAINE KUNJUWA:** To the funeral.

5 **ADV. ADILA HASSIM:** To what exactly?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** To the funeral costs.

**ADV. ADILA HASSIM:** But what specifically are you talking about? Are you talking about...?

10 **ME. LULEKA LORRAINE KUNJUWA:** The food, the grocery, the buses.

**ADV. ADILA HASSIM:** Were there lots of people who attended?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes, we were surprised because a lot of people do not know  
15 Maureen because she grew up in a hospital. But it was full beyond our expectations.

**ADV. ADILA HASSIM:** Was your mother present?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** ...*Interpreting...* Yes.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

5 **INTERPRETER:** Even though she was no longer able to talk, but she was there.

**ADV. ADILA HASSIM:** And what was the impact of Maureen's death on your mother?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** She did not take it well.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** It was not easy for her because she has high blood, sugar diabetes and it was very difficult, it was not easy at all.

**ADV. ADILA HASSIM:** Me. Kunjuwa, when you started off your testimony you told  
15 us of the sad story of the eviction of your family, which resulted in the family members being split up and living with different relatives.

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes that is correct.

**ADV. ADILA HASSIM:** Did those family members, your siblings and so on come all

5 together for the funeral?

**ME. LULEKA LORRAINE KUNJUWA:** Yes.

**INTERPRETER:** ...*Interpreting...* Yes that is correct.

**ADV. ADILA HASSIM:** Is there anything else that you would like to add regarding

the circumstances of Maureen's death?

10 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** What I can say is that we did not take this well.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Maureen was admitted at Randfontein when she was 20 years

15 old.

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** She stayed at Randfontein for 41 years.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** And she was okay, there was no problem.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

5 **INTERPRETER:** She went to Takalani, she only stayed for seven months and she died thereafter.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** All I can say is that they have murdered her, that is all I can say.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes, if she hadn't fallen, incurred a brain  
10 injury and she had not developed sepsis and had been properly fed and given proper medication, which she took for the 41 years and she was helped and washed and supported, probabilities of her living on are very high, are they not?

**INTERPRETER:** Sorry, I was distracted.

**ARBITRATOR, JUSTICE MOSENEKE:** You were distracted?

15 **INTERPRETER:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** I am saying to the witness.

**INTERPRETER:** Yes Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** If her sister had not fallen onto the side of her head, if she had not developed a brain injury.

**INTERPRETER:** Yes.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Which was followed by the development of sepsis and if at Takalani she was looked after, protected from falling and fed properly and given medication as she received for 41 years at Esidimeni, her chances of survival would have been very, very high, is it not?

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

10 **INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** I think that she was going to be still alive today, if it wasn't of those.

**ARBITRATOR, JUSTICE MOSENEKE:** And if you had a choice, would you have  
15 removed her from Life Esidimeni?

**INTERPRETER:** ...Interpreting...

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** No.

**ARBITRATOR, JUSTICE MOSENEKE:** Was your consent sought before she was removed from Life Esidimeni?

**INTERPRETER:** ...*Interpreting...*

5 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** No.

**ARBITRATOR, JUSTICE MOSENEKE:** Did you have the means and the power to take her for care at another place other than the one that the government had chosen?

10 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** No.

**ARBITRATOR, JUSTICE MOSENEKE:** Did you have the means to take her for instance to a private psychiatric place of care?

15 **INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** No Justice, I did not have the means.

**ARBITRATOR, JUSTICE MOSENEKE:** So you depended wholly on the care that was provided or had to be provided by the State.

**INTERPRETER:** ...*Interpreting...*

5 **ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

**INTERPRETER:** Yes that is correct, Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** And did you get that care?

**INTERPRETER:** ...*Interpreting...*

**ME. LULEKA LORRAINE KUNJUWA:** ...*Reply...*

10 **INTERPRETER:** Only up until 2016 when she was transferred to Takalani.

**ARBITRATOR, JUSTICE MOSENEKE:** Counsel.

**ADV. ADILA HASSIM:** Thank you Me. Kunjuwa. I am very sorry for your loss and for your family's loss. I don't have any further questions at this point, Justice Moseneke.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Thank you.

**INTERPRETER:** ...*Interpreting...*

**ARBITRATOR, JUSTICE MOSENEKE:** Adv. Crouse.

**ADV. LILLA CROUSE:** Thank you, Justice, we have no questions.

**ARBITRATOR, JUSTICE MOSENEKE:** Adv. Groenewald.

**ADV. DIRK GROENEWALD:** Thank you, Justice, we have no questions for the  
5 witness.

**ARBITRATOR, JUSTICE MOSENEKE:** Adv. Ngutshana.

**ADV. PATRICK NGUTSHANA:** No questions, Justice Moseneke.

**ARBITRATOR, JUSTICE MOSENEKE:** No questions. Adv. Hutamo for the State.

**ADV. TEBOGO HUTAMO:** Thank you Justice. There are no questions to the  
10 witness. We want to express the regret of the loss that, the loss of life that has  
been suffered and things could have been done better. We really apologise for  
what had actually happened. And we thank the opportunity of the witness having to  
testify about the circumstances under which they had to experience. Thank you.

**INTERPRETER:** ...*Interpreting*...

15 **ARBITRATOR, JUSTICE MOSENEKE:** (Vernac).

**INTERPRETER:** You have an opportunity to reply if you so wish.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** What I can say is that our government.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** The democratic government.

5 **ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** The government that we have elected.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Did not treat my sibling very well.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

10 **INTERPRETER:** The apartheid government.

**ME. LULEKA LORRAINE KUNJUWA:** ...Reply...

**INTERPRETER:** Treated my sister very well.

**ARBITRATOR, JUSTICE MOSENEKE:** Re-examination.

**ADV. ADILA HASSIM:** No re-examination, Justice Moseneke.

15 **ARBITRATOR, JUSTICE MOSENEKE:** I don't know if those were your final words

or do you want to say anything else mammie?

**ME. LULEKA LORRAINE KUNJUWA:** No thank you.

**INTERPRETER:** ...*Interpreting...* Nothing, Honourable Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** (Vernac). Okay. We are going to adjourn  
for tea until twelve o'clock.

5 **END OF SESSION 1**

SESSION 2

**ARBITRATOR: JUSTICE MOSENEKE:** Council.

**PATRIC NGUTSHANA:** Justice, before we proceed can we take this opportunity to introduce further evidence to the record?

5 **ARBITRATOR: JUSTICE MOSENEKE:** Yes certainly.

**PATRIC NGUTSHANA:** That will be “Ela 52, Ela 53, 54, 55” and that will include the report of the conditions at the mortuaries at Mamelodi Hospital and Cullinan Rehabilitation Care Centre. And it will also include the budge innovation to Health Services.

10 **ARBITRATOR: JUSTICE MOSENEKE:** Yes thank you. Is there before the handed out, any objections from any of the parties?

**ADV ADILA HASSIM:** No objection Justice.

**ARBITRATOR: JUSTICE MOSENEKE:** Council you proposed to call somebody, to identify the documents and confirm their offer ship and take Christians on the  
15 contents

**ADV PATRIC NGUTSHANA:** Indeed so Justice. As requested yesterday we should identify the relevant officials to be able to give testify of the conditions of

those mortuaries. But those reports were in respect of the specific request made for those two hospitals. So the reports are limited for those specific mortuaries.

**ARBITRATOR: JUSTICE MOSENEKE:** Sure. Fair enough thank you. These are helpful and you will signify the witness who will come and testify on the contents of  
5 the reports.

**ADV PATRIC NGUTSHANA:** Indeed so.

**ARBITRATOR: JUSTICE MOSENEKE:** Very well, thank you. These are not being admitted. Exhibit; there are 52, 53, and 54. By consent of all the parties subject to all evidence to confirm the contents thereof. Thanks Council. Is there anything else  
10 from your side?

**ADV PATRIC NGUTSHANA:** Nothing further.

**ARBITRATOR: JUSTICE MOSENEKE:** Thank you.

**ADV ADILA HASSIM** Justice we would like to call Anna Mthembu.

**ARBITRATOR: JUSTICE MOSENEKE:** Yes, thank you.

15 **ADV ADILA HASSIM** Ms Mthembu will testify in IsiZulu.

**ARBITRATOR: JUSTICE MOSENEKE:** In IsiZulu. Will you please put your full names on record?

**MS ANNA MTHEMBU** Anna Tokozile Mthembu.

**ARBITRATOR: JUSTICE MOSENEKE:** Do you swear that the evidence you are about to give will be the truth and nothing but the truth and if so please raise your right hand and say: “so help me God”.

**INTERPRETER:** (VERNACULAR)

5 **MS ANNA MTHEMBU** (VERNACULAR)

**INTERPRETER:** Sworn in Justice.

**ARBITRATOR: JUSTICE MOSENEKE:** Council.

**ADV ADILA HASSIM** Thank you Justice. Good afternoon Ms Mthembu.

**INTERPRETER:** (VERNACULAR)

10 **MS ANNA MTHEMBU** (VERNACULAR)

**INTERPRETER:** Good afternoon Council.

**ADV ADILA HASSIM** Can you tell us what is your relationship with Vuzisiwe Tshabalala?

**INTERPRETER:** (VERNACULAR)

15 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** She was my sister.

**INTERPRETER:** (VERNACULAR)

**INTERPRETER:** She was my sister, she came after me.

**ADV ADILA HASSIM** So she was your younger sister?

**INTERPRETER:** Yes, she was my younger sister.

**ADV ADILA HASSIM** For a change from the last witness, Justice we will start at the end and work our way backwards.

**ARBITRATOR: JUSTICE MOSENEKE:** It's not a bad start Council.

5 **INTERPRETER:** (VERNACULAR)

**ADV ADILA HASSIM:** When did Vusiziwe passed away?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** She passed on, on 25<sup>th</sup> of July 2016.

10 **ADV ADILA HASSIM:** 25<sup>th</sup> July 2016. Just to confirm that, you have a file in front of you. Actually you don't. It is file volume 9 and if you open page 296. Do you see the death certificate?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

15 **INTERPRETER:** Yes. I can recognise the death certificate.

**ADV ADILA HASSIM:** Of Vusiziwe?

**INTERPRETER:** Yes.

**ADV ADILA HASSIM:** The date of death is 25 July 2016.

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**ADV ADILA HASSIM:** And the place of death is recorded as Cullinan.

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

5 **INTERPRETER:** Yes that is correct Council.

**ADV ADILA HASSIM:** And it says the course of death is natural. Natural courses.

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

10 **INTERPRETER:** Yes that is was is recorded.

**ADV ADILA HASSIM:** By Cullinan do you understand it as the Cullinan Care Centre? Is that where Vusiziwe was residing?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

15 **INTERPRETER:** Yes CCR. Yes it was indeed.

**ADV ADILA HASSIM:** And before CCR, where was she?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** She was in Brakpan in Witpoort.

**ADV ADILA HASSIM:** And how long was she there for? This is the Life Esidimeni Witpoort?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

5 **INTERPRETER:** She was first admitted in Randfontein, Life Esidimeni and then I requested her to be transferred to Brakpan. It was where she was transferred.

**ADV ADILA HASSIM:** Why did you request for her to be moved, to Brakpan?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

10 **INTERPRETER:** Because I want her to be nearer to me so that I can visit her.

**ADV ADILA HASSIM:** And when was she moved from the Life Esidimeni Witpoort?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

15 **ADV ADILA HASSIM:** To Randfontein?

**MS ANNA MTHEMBU:** 2004.

**INTERPRETER:** I think it was 2004 during 2004.

**ADV ADILA HASSIM:** And was she at that facility from 2004 until she was moved to Cullinan?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Yes that is correct.

**ADV ADILA HASSIM:** And when was she moved to Cullinan?

5 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** They didn't notify me that she was been transferred to Cullinan. The only phone call that I got was when they was informing us that she has passed on.

10 **ADV ADILA HASSIM:** When was the last time you see Vusiziwe?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** It was February 2016, the last time I saw her.

**ADV ADILA HASSIM:** And where was she in February 2016?

15 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** She was in Brakpan in Witpoort.

**ADV ADILA HASSIM:** Can you tell us what Vusiziwe's health and mental health condition was?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** She couldn't speak and she couldn't do anything for herself.

She couldn't even feed herself. She couldn't even say that she wanted to go to the

5 toilet.

**ADV ADILA HASSIM:** And for how long was she in that condition?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** She was like that ever since we were children and growing up.

10 When we asked our mother, what happened to her, she said, she was like that she  
couldn't speak.

**ARBITRATOR: JUSTICE MOSENEKE:** Could she walk on her own?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

15 **INTERPRETER:** Yes she could walk on her own.

**ADV ADILA HASSIM:** Could she hear?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Yes she could hear because she recognised me every time I have visited her then she will point at me and smile at me.

**ADV ADILA HASSIM:** So she couldn't speak, but she was able to communicate with you?

5 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Yes she couldn't speak, but each time when I visited her I would ask her, "Vuzi can you recognise me?" She would smile and then look down.

**ADV ADILA HASSIM:** How often did you visit Vuzi at Witpoort?

10 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Whenever I got time, I would go twice in a month. When I didn't got time I would make sure that I go at least once a month.

**ADV ADILA HASSIM:** At least once a month or twice a month if you could. And

15 when you visited her, was she happy to see you and what was her condition?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** She was okay because she laughed and smile.

**ADV ADILA HASSIM:** And you said the last time you saw her was February 2016.

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

5 **INTERPRETER:** Yes that is correct Council.

**ADV ADILA HASSIM:** And you were not informed, I heard you say. I just want to confirm. You were not informed that she would be moved from Witpoort to Cullinan?

**INTERPRETER:** (VERNACULAR)

10 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Yes that is correct, they didn't inform me.

**ADV ADILA HASSIM:** Do you now know when she had been moved to Cullinan?

**INTERPRETER:** (VERNACULAR)

15 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** No, still now I don't know.

**ADV ADILA HASSIM:** In the exhibits file, I would like to refer you to a document that is numbered "EIAH4". If you can turn to the second page and in the left hand

side column you will see numbers for patient ID and if you go down the column to number MA0453 you will see Vusiziwe Tshabalala. Let me know if you find it.

**INTERPRETER:** MA?

**ADV ADILA HASSIM:** MA4503.

5 **INTERPRETER:** Yes we found it.

**ADV ADILA HASSIM:** What does it say next to the number?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** She is confirming the name, Tshabalala Vusiziwe.

10 **ADV ADILA HASSIM:** And if you follow along the roll it says she was registered at Cullinan Care in Tshwane and it says her date of birth. Next to the date of birth, the very next column is called the Life discharge date and the date recorded there...am I going to fast do you see it?

**INTERPRETER:** No, no. Yes we do see it.

15 **ADV ADILA HASSIM:** Is 23 June 2016. Do you see that?

**INTERPRETER:** Yes.

**ADV ADILA HASSIM:** So according to these records, the date on which Vusiziwe was moved to Cullinan was 23 June 2016.

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** It is the first time I know of that.

**ADV ADILA HASSIM:** I am informing you now so that you know what happened in between February 2016 and July (intervene)

5 **INTERPRETER:** (VERNACULAR)

**ADV ADILA HASSIM:** What it means is that Vusiziwe died a month after she was transferred to Cullinan.

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

10 **INTERPRETER:** Like I said Council, it is the first time I heard of that.

**ADV ADILA HASSIM:** You said that you haven't seen her when she died 25 July 2016 and it was when you received a phone call that was to inform you of her death. That was the first time when you found out that she was at Cullinan. Can you tell us who called you?

15 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** It was Siphon Tshabalala.

**ADV ADILA HASSIM:** Who is Siphon Tshabalala?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** He is my cousin.

**ADV ADILA HASSIM:** And how did he know?

**INTERPRETER:** (VERNACULAR)

5 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Siphosaid to me a lady by the name of Daphne called him to notify him that Vusiziwe passed away.

**ADV ADILA HASSIM:** Do you remember the surname of Daphne?

**INTERPRETER:** (VERNACULAR)

10 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** It was Daphne Ndlovu.

**ADV ADILA HASSIM:** She called Siphosaid you cousin and he then informed you.

Do you at any point speak to Mrs Ndlovu?

**INTERPRETER:** (VERNACULAR)

15 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** When Siphosaid told me that a lady by the name of Daphne phoned him and I asked Siphosaid to provide me with the contact details of Daphne so that I can call her back.

**ADV ADILA HASSIM:** And did you call her?

**MS ANNA MTHEMBU:** Yes.

**ADV ADILA HASSIM:** And why did you call her, what did you want to speak to her about?

**INTERPRETER:** (VERNACULAR)

5 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I called her because she left a message with my cousin Siphon that Vusiziwe passed away, so I wanted to ask her how can she inform my cousin when I was Vusiziwe's guardian.

**ADV ADILA HASSIM:** And what did she say?

10 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I phoned Daphne and I told her that I got her number from my cousin.

**ADV ADILA HASSIM:** But did Daphne explained why she called Siphon instead  
15 of Mrs Mthembu?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Daphne said she didn't have my contact details; she only had Siphon's contact details.

**ADV ADILA HASSIM:** And did she explained to you what had happened to Vusiziwe, why she died?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

5 **INTERPRETER:** No she didn't tell me.

**ADV ADILA HASSIM:** And did you then go to Cullinan to identify Vusiziwe's body?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

10 **INTERPRETER:** Yes we did go to Cullinan to identify her body.

**ADV ADILA HASSIM:** When did you go?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** It was the same day when Daphne called me and informed me  
15 that Vusiziwe has passed away. She said to me if you can arrive after four, please don't blame me and I asked her why do you say that? She said, I say so because I am going home". And I have asked her what happens if I don't have an undertaker to help me. She said me, it is not her problem.

**ADV ADILA HASSIM:** Why did she tell you that you have to collect the body on the very same day?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

5 **INTERPRETER:** I don't know, but I wanted to know, I wanted to ask her that.

**ADV ADILA HASSIM:** Did you ask her?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** She didn't want to talk to me then, that is when I contacted my  
10 daughter, Maria. I asked my daughter when the situation is like this, what do we do?  
And she said, "Mam I really don't know". But if you say we must go and collect the  
body we should do likewise. And I told my daughter the very same story Daphne  
told me that we should collect the body today. If we don't collect the body today we  
must not blame her. My daughter then asked for leave at work.

15 **ADV ADILA HASSIM:** What did Mrs Ndlovu mean, when she said "don't blame  
her"? Blame her for what? What happen if you did not collect the body that day?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I really don't know, but when we got there that place had many trees. We went in and there was a door that we through, I mean went in and follow that collie door.

**ADV ADILA HASSIM:** Are you talking about Cullinan, is this, are you now going  
5 to the Mortuary?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Yes it was Cullinan and we and when we got there, there was...as we were going through that collie door passage it was a small passage  
10 and on my right-hand side there was room.

**ARBITRATOR: JUSTICE MOSENEKE:** Was you daughter with you?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** My daughter was on her way with the undertaker.

15 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** When we got there I asked the security guards that we were looking for Daphne. They asked me why I am looking for Daphne. I said that I have previously spoken to Daphne on the phone; we came here because we wanted to collect my sister's body and then they said they were going to look for Daphne.

They went and came back to us and then they said, “Daphne says you must come in”. I can’t say that I saw a proper reception when we got there, because as we were going through the passage they were coals, the coals that you use to light fire.

We went in and went through that passage on the left-hand side it looked like there

5 was rooms. When we got there, indeed we got hold of Daphne. I didn’t know

Daphne but they did show us that this is Daphne and I told her that, “Daphne we are

here to see you”. She asked why we are here.

**ADV ADILA HASSIM:** At that point where your daughter with you?

**INTERPRETER:** (VERNACULAR)

10 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** No not yet Council.

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Daphne pointed us to go in a room, it was a small room. It didn’t show that it was a proper office. Then Daphne asked me did I know Vusiziwe

15 and I confirmed and said yes I know her. She asked me what was my relationship

with Vusiziwe and I said she was my younger sister. She asked me if I did get the

message that Vusiziwe has passed away and I then said, isn’t it you who called us

and informed us that Vusiziwe passed away, that is why we are here. I asked her,

how did Vusiziwe end up here or how was she transferred from Life Esidimeni to

this facility? She said she didn't know anything. Is asked her how did she end up in this place. She said from Brakpan she was transferred to Randfontein and from Randfontein she was transferred to Germiston and from Germiston she was transferred to Cullinan. I asked her how did you do that because you didn't inform me. She stood by her answer and said that she doesn't know anything. I said please just elaborate on; explain further on how my sister pass away. She said she didn't know anything she just received a phone call. She said she received a call because Vusiziwe was okay the previous night and she went to bed and the morning she started, they have discovered that she had passed away. I asked to see her file or her records and she said Vusiziwe didn't had any kind of file.

**ADV ADILA HASSIM:** Was Vusiziwe on medication?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I don't know the precise medication but she did take medication so I didn't know the precise medication she was taken.

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** And I said to Daphne I don't understand how my sister ends up at this place without any record or file. Because I am also sick and the time I was

sick I was transferred to HF to another clinic. They did give me a copy of my file or records.

**ARBITRATOR: JUSTICE MOSENEKE:** When were you transferred?

**INTERPRETER:** (VERNACULAR)

5 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** It was in 2015.

**ARBITRATOR: JUSTICE MOSENEKE:** HF is now called Steve Biko Academic Hospital.

**INTERPRETER:** (VERNACULAR)

10 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Thanks Justice.

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** It didn't sit well with me but finally my daughter arrived and Daphne told us she wanted to go home. And I told Daphne when my daughter finally got there, "Daphne you said, you don't have my sister's file then how will we know what was the cause of her death". She just gave us a paper or a document. That paper was taken by the gentlemen of the undertaker. Because it was very late in the afternoon ... (intervene)

**ADV ADILA HASSIM:** Sorry, what was the paper?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** It was the document Daphne signed to confirm that Vusiziwe was indeed in Cullinan and that she has passed away

5 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I said to Daphne, “You can’t leave and go home, without take me to where my sister was sleeping”. She insisted on going home but she said that she will refer me to another nurse. When the nurse finally came she took me. As we were walking (intervene)

10 **ARBITRATOR: JUSTICE MOSENEKE:** Did Ms Ndlovu leave?

**MS ANNA MTHEMBU:** Yes.

**INTERPRETER:** yes she did.

**ARBITRATOR: JUSTICE MOSENEKE:** She left you there without having shown you, your sister’s body.

15 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** She just pointed a small room that we will find her there and she left with the security guard. She left us with a security guard. My daughter said she was afraid to go and identify the body, but I said no it is fine I can go and point

the body. This room had a very small passage it doesn't indicate that it was a mortuary. It was small, if I can estimate from that stand of the camera to this table here.

**ARBITRATOR: JUSTICE MOSENEKE:** It is about 4 metres. Four to five metres.

5 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I don't know the precise measurements.

**ADV ADILA HASSIM:** It's all right. Was the room cold?

**INTERPRETER:** (VERNACULAR)

10 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I know mortuaries and how they look like but that room it wasn't a mortuary and it wasn't cold.

**ADV ADILA HASSIM:** Did you enter the room?

**INTERPRETER:** (VERNACULAR)

15 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** The room was small so we entered and on the floor, there she was, her body was there on the floor and it was covered. Daphne at that time she already left, so I was with the security guard and the nurse. I said to the nurse, our

culture permits us to go and see where she was or the place where she passed on,  
so can you please take me there where she finally met her demise (intervene)

**ADV ADILA HASSIM:** Sorry, just before we come there, you said you saw  
Vusiziwe's body. Was there anything else in the room or was it just Vusiziwe's, or  
5 was she on a table?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** She was on the floor; she was lying on the floor. There were  
no tables or anything else.

10 **ADV ADILA HASSIM:** She was on the floor?

**INTERPRETER:** Yes that is correct.

**ADV ADILA HASSIM:** Okay, you can continue.

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** As we were going through to see where she was sleeping,  
15 then we were taken through a ward where they said, that is where she was sleeping.  
We found out there was males in that room or that ward. There were both males  
and females in that room and I said to the nurse, I asked her was this the place  
where my sister was sleeping. I asked to see where her bed was and she said the  
bed was taken out. I said to her how can you take the bed out, meaning that my

sister was sleeping on the floor, how can you take the bed out, because from my knowledge if a person passes when she is sleeping, the bed is only sprayed or it is disinfected.

**ADV ADILA HASSIM:** How many people were in that ward?

5 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I can estimate and say that there were ten females, but males there were more in number and as I was observing the place there was a white male person there. He has a long beard and he had long hair as well. Was this  
10 male sharing this ward with my sister and this male person looks like he doesn't take a bath and these people also doesn't look like they are taking baths or any sort of... The nurse said to me, "mam you really ask too many questions and I have a lot of work to do".

**ADV ADILA HASSIM:** Was everybody else in a bed?

15 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Not everyone was in their bed only a view people and the beds was not like the hospital bed we are used to. It was like a cot.

**ARBITRATOR: JUSTICE MOSENEKE:** I though the witness said not everyone seems to have a bed of his or her own.

**INTERPRETER:** Yes that is it, Justice. Yes.

**ARBITRATOR: JUSTICE MOSENEKE:** Yes, I think you have to make that clear.

5 **ADV ADILA HASSIM:** In other words ... (intervene)

**ARBITRATOR: JUSTICE MOSENEKE:** There appear to be more people than beds.

**ADV ADILA HASSIM:** Thank you Justice.

**MS ANNA MTHEMBU:** (VERNACULAR)

10 **INTERPRETER:** The ward was unclear and I had to say to the gentlemen that were there that you are not treating our family members with dignity and I said to those gentlemen that the unclear place is that killed our loved one. Even when I arrived home, I continued crying and saying to myself that I had food, but it looked like my sister didn't have food.

15 **ADV ADILA HASSIM:** Did you go to any parts of the centre? To the kitchen or to the bathroom?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I didn't go to any kitchen or bathroom. That place was like a forest an open field. It didn't look like a hospital. As we were going out of that place, I said to my daughter "if only they could also take away the remaining patients there, because it looks like they are going to die as well". Then we finally  
5 left the place.

**ARBITRATOR: JUSTICE MOSENEKE:** Why do you think the remaining patients will also die?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

10 **INTERPRETER:** That place was very unpleasant and it wasn't a proper place where you could take care of a patient or a mental ill patient. When you enter the door, they all come to you as if you are carry something and you don't have anything.

**ADV ADILA HASSIM:** Did anybody ask you for food or something to eat?

15 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** No one asked for food but I could see because as we entered everyone wanted to come to us.

**ADV ADILA HASSIM:** And what did you say to the people who approached you?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

5 **INTERPRETER:** I just greeted them. I told them that I had nothing, but I saw that we were going to Vusiziwe they all wanted to come to us as they were approaching us.

**ADV ADILA HASSIM:** Did you asked any of them whether they knew Vusiziwe and whether they remembered her?

10 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I didn't asked anyone because the ward was very unclean and there was an unpleasant smell and the beds. So I only talked to the nurse who was showing us the place.

15 **ARBITRATOR: JUSTICE MOSENEKE:** You say the patients was also unwashed?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Yes that is correct, Justice, because you can easily identify someone who is taking a bath or a shower.

**ARBITRATOR: JUSTICE MOSENEKE:** And you said you could detect the body smell, the unpleasant body smell.

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

5 **INTERPRETER:** Yes, Justice, there was an unpleasant smell.

**ARBITRATOR: JUSTICE MOSENEKE:** And the man looked like he didn't shaved for a long time, isn't it?

**MS ANNA MTHEMBU:** (VERNACULAR)

10 **INTERPRETER:** The beard was very long and looked that they haven't shaved for days.

**ARBITRATOR: JUSTICE MOSENEKE:** Did anybody tell you why they have kept male and female in the same ward?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

15 **INTERPRETER:** No, Justice, no one informed us about that.

**ARBITRATOR: JUSTICE MOSENEKE:** (VERNACULAR)

**INTERPRETER:** From there, where did you go?

**ARBITRATOR: JUSTICE MOSENEKE:** The one say the ward. To which spot did you go, to lift the sole of your sister to be carried away?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** We took my sister's sole from that little room that looked like a mortuary but it wasn't, so we did that process there.

5 **ARBITRATOR: JUSTICE MOSENEKE:** And you told us that the room was neither a mortuary nor cold or refrigerated.

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** That's correct Justice, because I know how a mortuary looks  
10 like.

**ARBITRATOR: JUSTICE MOSENEKE:** Was there any other bodies, other than your sister's?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

15 **INTERPRETER:** No Justice there was nobody.

**ARBITRATOR: JUSTICE MOSENEKE:** And what was the condition of your sister's body? Did you lift the sheet?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** We didn't uncovered her because there was a gentlemen there, but before we did check and she didn't have any clothes on.

**ARBITRATOR: JUSTICE MOSENEKE:** So you didn't want to uplift the sheet when the male security guard present?

5 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Yes, that is correct Justice.

**ARBITRATOR: JUSTICE MOSENEKE:** But later did you find the opportunity to examine the body of your sister?

10 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** We did find an opportunity in the space the mortuary that they were using, we did find the opportunity to examine her body.

**ARBITRATOR: JUSTICE MOSENEKE:** Council.

15 **ADV ADILA HASSIM:** Thank you. At this point when you took the body, you were not informed what was the cause of death was?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** No we were not informed Council.

**ADV ADILA HASSIM:** In the same file that is opened in front of you. Can you please turn to page 3003? Do you see it?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

5 **INTERPRETER:** Yes, council.

**ADV ADILA HASSIM:** This is the form that is filled out, it is called, Notice of Death and amongst others it is filled by the person a medical person, who identifies the causes of death. I would like you to look at paragraph 77, which have the heading "Causes of Death". Do you see it, have you found it? It is paragraph 77.

10 **INTERPRETER:** Yes council.

**ADV ADILA HASSIM:** Part one, and it says "immediate cause of death" and the handwritten note next to it is hypothermia. Immediately below that it says, secondly list conditions if any leading to immediate cause and the handwritten note that is listed in that respect is "severe dehydration". The implication of this Notice of Death form is that Vusiziwe died because she did not have sufficient food and water and she was cold.

**INTERPRETER:** (VERNACULAR)

**ADV ADILA HASSIM:** Where you informed of this by anybody after her death?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Not it is the first-time council.

**ADV ADILA HASSIM:** Did anybody from the Government contact you after Vusiziwe died to explain what happened and what led to her death?

5 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** No, no one contacted us.

**ADV ADILA HASSIM:** No one from Government?

**INTERPRETER:** (VERNACULAR)

10 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** No.

**ADV ADILA HASSIM:** Did you, at any point, there was a memorial service for the families in December 2016. Did you attend the memorial which was in Pretoria?

**INTERPRETER:** (VERNACULAR)

15 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Is it Freedom Park?

**ADV ADILA HASSIM:** Yes.

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Yes I did go.

**ADV ADILA HASSIM:** And when you went there... (Intervene)

**ARBITRATOR: JUSTICE MOSENEKE:** Sorry Council, you said when was that?

**ADV ADILA HASSIM:** December 2016.

5 **ARBITRATOR: JUSTICE MOSENEKE:** Thank you.

**ADV ADILA HASSIM:** Was it February 2016? Let me clarify the date.

December 2016 there was a meeting with the Government and the families at Kgotso House, did you attend that meeting?

**INTERPRETER:** (VERNACULAR)

10 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Yes I was there.

**ADV ADILA HASSIM:** And then in February 2017 there was a memorial service in Freedom Park. Did you attend that event?

**INTERPRETER:** (VERNACULAR)

15 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Yes, I did attend.

**ADV ADILA HASSIM:** And the December 2016 meeting, were there officials from the Gauteng Government?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I can't recall because at that time I was crying uncontrollably they had to call the EMS to come and assist me so I can't remember correctly who was there.

5 **ADV ADILA HASSIM:** Did you suffer a cardiac rest at that time?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Yes that's correct Council.

**ADV ADILA HASSIM:** And in February 2017 when you went to Freedom Park,  
10 did you meet with any Government Officials there?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** The same situation happened as in the meeting in December, I  
can't recall because I also they had to call the EMS to come and help me because  
15 of my situation.

**ADV ADILA HASSIM:** Has that happened again since then? That you collapse  
and that and EMS needs to be called?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Yes it did happen again after that.

**ADV ADILA HASSIM:** When did this...why...okay let me ask you this. Do you think it is as a result of your experience of Vusiziwe's death that has affected your health condition?

5 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Yes I do think so.

**ADV ADILA HASSIM:** In what way?

**INTERPRETER:** (VERNACULAR)

10 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I think if Vusiziwe was with me, because my mother left Vusiziwe in my care, I think Vusiziwe would still be alive, I don't think she would be dead. Even when I sit down and eat, I also think of her if she had food

**ARBITRATOR: JUSTICE MOSENEKE:** So the interpreter has slant the grieving so  
15 are you going to manage at all?

**INTERPRETER:** I think my colleague can take over

**ARBITRATOR: JUSTICE MOSENEKE:** Okay. Interpreter are you okay as I knows it is a difficult stories. Perhaps we should find your other interpreter colleague to relief you for a while.

**INTERPRETER:** Thank you Justice.

**ADV ADILA HASSIM:** Are you able to continue Mam?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

5 **INTERPRETER:** Yes I will be able to continue.

**ADV ADILA HASSIM:** When was Vusiziwe laid to rest?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** On the 6<sup>th</sup> at 6am...6<sup>th</sup> August 2016

10 **ADV ADILA HASSIM:** And who paid for the funeral expenses?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** It was myself and my child.

**ADV ADILA HASSIM:** What did it cost you?

15 **INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I did not count but my child counted but my child count and she said that the cost was R85 000.00. Because she was buying groceries, she also paid for the busses, she also paid for the grave.

**ADV ADILA HASSIM:** Is there anything else that you would like to add about what happened to Vusiziwe?

**INTERPRETER:** (VERNACULAR)

**ARBITRATOR: JUSTICE MOSENEKE:** Before she does Council, I want us to  
5 explore some point of the evidence that is unclear to me. When one looks at the schedule you referred us earlier, "Ela 4" and it goes to the entry Vusiziwe Tshabalala. She was there for only 32 day as you can see on the last column and she was never taken (indistinct) from the schedule to anywhere else except CCRC itself. Is that correct?

10 **ADV ADILA HASSIM:** I am not sure about the schedule. I think what it reflects is the eventual place where the Mental Health Care uses, you know eventually what place and that CCRC is under column that says place of death.

**ARBITRATOR: JUSTICE MOSENEKE:** You see the others says the same column, shows that they been to Siabadinca, they went to Masega Home. If you follow the  
15 same column throughout you see from CCRC they might be placed somewhere else... (Intervene)

**INTERPRETER:** Sorry madam and Justice, the witness asks to take her tablets, her medication.

**ARBITRATOR: JUSTICE MOSENEKE:** Oh yes the tablets should be taken.

(Vernacular)

**ADV ADILA HASSIM:** Justice, before we go on, may I just ask the witness if she is okay to continue?

5 **INTERPRETER:** Yes I would be able to continue.

**ARBITRATOR: JUSTICE MOSENEKE:** Council it's a way of asking you to ask the witness to describe the place where Vusiziwe was allegedly housed before she dies because the schedule said to us as the evidence of CCRC is very different from what she has described earlier. Can we just try and clarify that?

10 **ADV ADILA HASSIM:** Yes. There is the two documents there are "Ela 4" to which we got now and perhaps you might be of some assistance of "Ela 9", which was the document that was provided that deals specifically with Cullinan Care and Rehabilitation Centre. And I think this was the document that was introduced into evidence by Mr Masenogi. Sorry Daphne Ndlovu.

15 **ARBITRATOR: JUSTICE MOSENEKE:** Where do we find Vusiziwe Tshabalala?

**ADV ADILA HASSIM:** Page 20.

**ARBITRATOR: JUSTICE MOSENEKE:** I am there.

**ADV ADILA HASSIM:** And it is the second last name in the table. And it record that she was admitted from Life Esidimeni on 23<sup>rd</sup> June 2016 at CCRC.

**INTERPRETER:** (VERNACULAR)

**ADV ADILA HASSIM:** And that she died at CCRC.

**INTERPRETER:** (VERNACULAR)

**ARBITRATOR: JUSTICE MOSENEKE:** It is a matter that we might take up with  
5 the...I see that the head of CCRC will be coming here. It is an unusual case  
because the rest would be either with Siabadinca or ... (intervene)

**ADV ADILA HASSIM:** With Anchor.

**ARBITRATOR: JUSTICE MOSENEKE:** With Anchor. It looks like in 30 days flat,  
records suggested that she was at CCRC and died there of hyperthermia and/or  
10 acuter dehydration.

**ADV ADILA HASSIM:** That is correct and the evidence we heard so far is that  
the conditions described by Ms Mthebu are conditions the prevail at Anchor and  
Siabedinca.

**ARBITRATOR: JUSTICE MOSENEKE:** Yes.

15 **ADV ADILA HASSIM:** But the record show that, at least from these records that  
the place of death was actually CCRC and not one of the other NGO's that was  
attached to CCRC (intervene)

**ARBITRATOR: JUSTICE MOSENEKE:** Can we ask whether she knows the place she was taken to be it a NGO or was it actually part of CCRC or managed as CCRC?

**INTERPRETER:** (VERNACULAR)

5 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I don't know.

**ARBITRATOR: JUSTICE MOSENEKE:** And the other question that I just want to follow up on before your council close up, is your sister was kept, presumably kept in that room for only one day, isn't it? Because you went with your daughter the  
10 very following day.

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** We went there the same day as Daphne called us, because she said that if we do not come we should not blame her. So I am not sure how  
15 many days.

**ARBITRATOR: JUSTICE MOSENEKE:** Yes it was the following day. The day following the day of her death.

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I am not sure if it was the following day or maybe it was the previous day but we went on the same day that Daphne called us. We are not ever aware as to the date of her death we are not aware as to how many days was she kept there.

5 **ARBITRATOR: JUSTICE MOSENEKE:** But the body had not decomposed.

**INTERPRETER:** (VERNACULAR)

**INTERPRETER:** No not yet.

**ARBITRATOR: JUSTICE MOSENEKE:** Okay. Council.

**ADV ADILA HASSIM:** Justice just to follow up on your question about CCRC  
10 and the two related NGO's. We have also heard from Daphne Ndlovu that she was a social worker at CCRC and that she was allowed to interfere in the two NGO's. She felt that her job was to work for CCRC. So I am just pointing it out that she was the CCRC social worker who contacted Ms Mthembu.

**ARBITRATOR: JUSTICE MOSENEKE:** Yes as I say, somebody from there will  
15 come and canvas these conditions which appear to be quite inconsistent with other evidence about CCRC lacking and number of supplies often pointed out by Advocate Groenewald, but none suggested the label of degradation that we had today. Very well.

**ADV ADILA HASSIM:** That's correct.

**INTERPRETER:** (VERNACULAR)

**ARBITRATOR: JUSTICE MOSENEKE:** And also to explain evidence like “ELA 9”,

where her death is recorded as natural causes and yet one of the anises completes the Death Notice and records cause of death that appears unnatural. That of

5 dehydration and hyperthermia.

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** Yes I get that.

**ADV ADILA HASSIM:** Is there anything else that you would like to add Mrs

10 Mthembu?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I would like to say that since Daphne did not tell us the truth about our family members. We loved our family members very much, but it looked

15 like they liked them and Daphne was not behaving like a Social Worker. Because if

she starts the ethic of this profession I think that he could have been of assistance to me. She would rush and go and say that had knock off at work. She was

supposed to be with me so that I can take the body of my sister and then. Until we go out and left the place. As a Social Worker I was expecting her to accompany me

to the ward, but she knew that there were things that were not pleasant in there.

She failed to accompany me to the ward. She gave me another person who I did

not know whether she was well qualified or not, because even that sister who was

introduced to me as a nurse, I was not happy. Because when I asked her whether it

5 is true that my sister passed on here, she starts to say that I am asking too much.

**ARBITRATOR: JUSTICE MOSENEKE:** Was she dressed in nursing uniform?

**INTERPRETER:** (VERNACULAR)

**MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** She was wearing a white top with navy blue trouser. That white

10 top it has something like crowns. I have nothing more to say. I am saying it is only

God now. He is going to respond one of the good days. So that we can now

closure as to how our loved ones passed on. It is not because we took them to

those places it was because we did not love them. We love them because even

today we still miss them. Even if you can go and see where she was sleeping, you

15 will remember her and say my sister was sleeping here. I want to have peace in my

life. I would also like to thank Section 27 from assisting me from the situation that I

was facing, I was not the way like I was today. They were concerned because

sometimes when they were talking to me (intervene)

**ARBITRATOR: JUSTICE MOSENEKE:** The witness says Section 27 were concerned.

**INTERPRETER:** Section 27, yes.

**ARBITRATOR: JUSTICE MOSENEKE:** I just wanted to make it clear what she  
5 says.

**INTERPRETER:** Yes she said Section 27 was concerned because of the situation in which I was at because sometimes when they were asking me, sometimes I could not respond to what they were saying to me.

**MS ANNA MTHEMBU:** (VERNACULAR)

10 **INTERPRETER:** I thank them very much because for the support they gave me and they also referred someone to me that I think give me counsel and consult me. Thank you that is all I have to say.

**ADV ADILA HASSIM:** Yes no questions.

**ARBITRATOR: JUSTICE MOSENEKE:** Well of course the one that is most in  
15 feature of this witnesses, there was never anybody senior knowledgeable caring to tell each one of you how your loved ones died.

**INTERPRETER:** (VERNACULAR)

**ARBITRATOR: JUSTICE MOSENEKE:** It was left to this one Social Worker and whose behaviour you have described, which is just less that acceptable. In every

single case there was no senior knowledgeable health care giver who would be available in writing or by word of mouth at least to say, this is how your loved one died.

**INTERPRETER:** (VERNACULAR)

5 **MS ANNA MTHEMBU:** (VERNACULAR)

**INTERPRETER:** I am not feeling well Justice.

**ARBITRATOR: JUSTICE MOSENEKE:** Okay let's leave it there. We will talk about it some other time Mommy. I don't want to take the adjournment now. Perhaps we should have this witness away given her condition. Do you have any questions?

10 **ADV ADILA HASSIM:** I have no questions, thank you Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** Okay.

**MS ANNA MTHEMBU:** Justice, just a few questions from our side.

**ARBITRATOR, JUSTICE MOSENEKE:** Okay.

15 **MS ANNA MTHEMBU:** Ma'am as you know, we represent also three family members who lost loved ones there at CCRC. Now, we've heard the testimony of Ms Ndlovu, who is the social worker there at CCRC.

**INTERPRETER:** (Vernacular)

**MS ANNA MTHEMBU:** Now, we heard her testifying that according to her, the patients received four meals a day.

**INTERPRETER:** (Vernacular)

**MS ANNA MTHEMBU:** She further testified that the patients were well looked after.

**INTERPRETER:** (Vernacular)

5 **MS ANNA MTHEMBU:** And that their linen, the linen were changed three times per day.

**INTERPRETER:** (Vernacular)

**MS ANNA MTHEMBU:** Now, we would just like to get your response on that seeing that you have first-hand knowledge of how it looked there. What is your  
10 response to this individual's statement that the patients were well looked after?

**INTERPRETER:** (Vernacular)

**ADV DIRK GROENEWALD:** (Vernacular)

**INTERPRETER:** I don't think that that place was good for taking care of people, especially given the state it was at, and I think if they continue to keep people at that  
15 place, people are still going to continue to die, because that place is unhygienic.

**ADV DIRK GROENEWALD:** (Vernacular)

**INTERPRETER:** Even the food they eat. We don't even know if they wash the pots before cooking, because we did not even go to the kitchen. We don't know how or what was the state of the kitchen.

**MS ANNA MTHEMBU:** Thank you very much ma'am. Thank you very much Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** Okay. All we know is that your sister didn't survive 32 days, within 32 days of her arrival there.

5 **INTERPRETER:** (Vernacular)

**ARBITRATOR, JUSTICE MOSENEKE:** Council, any questions?

**ADV PATRICK NGUTSHANA:** No questions Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** Advocate Hutamo?

10 **ADV TEBOGO HUTAMO:** Thank you Justice. There are no questions to the witness. Will we be allowed to express our regret for the loss that Ms Mthembu has suffered in relation to the passing of her sister Ms Chabalala? It is indeed very tragic that she had to go through all the pain and we hope that this process will be able to assist for everyone to find peace and we thank Ms Mthembu for coming through to give testimony. And we look forward that the Government and the

15 family, all the families affected, we should be able to achieve peace in what they have went through. And we hope that God will assist in giving us strength to resolve this difficult situation in which all the families are finding themselves in. Thank you.

**ARBITRATOR, JUSTICE MOSENEKE:** Thank you council.

**INTERPRETER:** (Vernacular)

**MS ANNA MTHEMBU:** (Vernacular)

**INTERPRETER:** Thank you.

**ARBITRATOR, JUSTICE MOSENEKE:** Re-examination?

5 **ADV ADILA HASSIM:** No re-examination thank you Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** (Vernacular). We have come to the end of your evidence, and we thank you for the courage to come and talk to us about this difficult experience.

**INTERPRETER:** (Vernacular)

10 **ARBITRATOR, JUSTICE MOSENEKE:** You don't seem to have anything else you want to say, but if there is, it is our convention here to give every witness an opportunity to say a final word, if they so choose.

**INTERPRETER:** (Vernacular)

**MS ANNA MTHEMBU:** (Vernacular)

15 **INTERPRETER:** I am fine thank you Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** Thank you ma'am. We are going to adjourn until 14h30. We are adjourned.



SESSION 3

**ARBITRATOR JUSTICE MOSENEKE:** You may be seated, thank you.

**ADV ADILA HASSIM:** Justice.

5 **ARBITRATOR JUSTICE MOSENEKE:** Counsel?

**ADV ADILA HASSIM:** Justice before we begin there is a document in front of you and it is numbered exhibit LA 56. It's a slight amendment to the avadavat of the expert report of the expert that will be coming tomorrow. The rest of the documents and the CV's to support the, and qualify the expert are still in the old bundle, bundle

10 11.

**ARBITRATOR JUSTICE MOSENEKE:** Ok.

**ADV ADILA HASSIM:** So the only thing that was slightly amended was the report but all the underlined documents are in bundle 11.

**ARBITRATOR JUSTICE MOSENEKE:** Thank you, it helps thank you.

15 **ADV ADILA HASSIM:** We would like to call Misses Jabulile Hlatswayo. Misses Hlatswayo will be testifying in isiZulu. Justice just for clarification the schedule for today listed 4 witnesses, but we will only be leading 3 witnesses today, the 4<sup>th</sup> regrettably is ill and will not be testifying before these proceedings.

**ARBITRATOR JUSTICE MOSENEKE:** No that is fine and there should be time for that tomorrow isn't there? I mean if the witness were be here tomorrow, is it the expert testimony tomorrow?

**ADV ADILA HASSIM:** It is the expert testimony tomorrow, we don't expect Misses  
5 Masinamela to make it tomorrow.

**ARBITRATOR JUSTICE MOSENEKE:** Tomorrow?

**ADV ADILA HASSIM:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** Ok. That is fine. In which, in which language do you want to testify, I'm sorry I have been told isiZulu.

10 **ADV ADILA HASSIM:** Yes isiZulu Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Aha... Your full names on record, please?

**JABULILE HLATSWAYO:** Misses Jabulile Hlatswayo.

**ARBITRATOR JUSTICE MOSENEKE:** Do you swear that the evidence you are about to give will be the truth and nothing but the truth and if so please raise your  
15 right hand and say so help me God?

**JABULILE HLATSWAYO:** Sorry Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Council.

**ADV ADILA HASSIM:** Thank you, Justice. Good afternoon Misses Hlatswayo.

**JABULILE HLATSWAYO:** Good afternoon council.

**ADV ADILA HASSIM:** Can you tell us what your relationship was to Sizwe Hlatswayo?

**JABULILE HLATSWAYO:** My stepson.

**ADV ADILA HASSIM:** And when did Sizwe passed away?

5 **JABULILE HLATSWAYO:** According to Daphney Ndlovu on the 10<sup>th</sup> of September 2016.

**ADV ADILA HASSIM:** For the record Justice it was, in fact, the 10<sup>th</sup> of September 2016...

**ARBITRATOR JUSTICE MOSENEKE:** Are you going to take me there?

10 **ADV ADILA HASSIM:** I am going to take you there, it is file 9 and it's page 3218. It is an abridged death certificate.

**ARBITRATOR JUSTICE MOSENEKE:** Yes.

**ADV ADILA HASSIM:** That notes the date of death on 10th September 2016 and the date, place of death is Cullinan and the cause of death is noted as under  
15 investigation. What was Sizwe mental health condition?

**JABULILE HLATSWAYO:** He was epileptic and he was diagnosed that he was, he had server intellectual disorder.

**ADV ADILA HASSIM:** When was he diagnosed?

**JABULILE HLATSWAYO:** It was early October or later September 2000.

20 **ADV ADILA HASSIM:** 2000 ok. And how old was Sizwe in the year 2000?

**JABULILE HLATSWAYO:** She was 12 going for 13 on November 21<sup>st</sup>.

**ADV ADILA HASSIM:** And once he was diagnosed, was he treated at a mental health facility?

**JABULILE HLATSWAYO:** Yes, after he was diagnosed I was called by the doctor  
5 and they told me that Sizwe must go to a facility which takes care of mentally ill patients.

**ADV ADILA HASSIM:** Which facility did he - which facility did he go to?

**JABULILE HLATSWAYO:** At Waverly which was under Life Esidimeni.

**ADV ADILA HASSIM:** And in what year was he admitted to Life Esidimeni  
10 Waverly?

**JABULILE HLATSWAYO:** October 2000.

**ADV ADILA HASSIM:** And how long did he reside at Life Esidimeni Waverly?

**JABULILE HLATSWAYO:** For almost 16 years.

**ADV ADILA HASSIM:** Did you visit Sizwe while he was at Life Esidimeni?

15 **JABULILE HLATSWAYO:** Yes, we use to visit him.

**ADV ADILA HASSIM:** How, how often did you visit him?

**JABULILE HLATSWAYO:** Before I had the problem with the sickness, I used to go twice a month and then I also fetch him two times a year to come home.

**ADV ADILA HASSIM:** To, to have visits with the family at home?

**JABULILE HLATSWAYO:** Yes, that is correct counsel.

**ADV ADILA HASSIM:** And how long would those visits last at home?

**JABULILE HLATSWAYO:** Mainly they were instructing us to keep them for three weeks because they would give us the medication for 21 days supply.

5 **ADV ADILA HASSIM:** And when you say they, you mean the staff at Life Esidimeni Waverly?

**JABULILE HLATSWAYO:** Yes.

**ADV ADILA HASSIM:** And did they always provide you with his medication when you took him home for a holiday?

10 **JABULILE HLATSWAYO:** Yes, counsel.

**ADV ADILA HASSIM:** When was the last time you saw Sizwe?

**JABULILE HLATSHWAYO:** January 2016, before he went back to Life Esidimeni, because we were with him December 2015.

**ADV ADILA HASSIM:** Was that, did he come home for the Christmas holidays?

15 **JABULILE HLATSHWAYO:** Yes, that is correct Counsel.

**ADV ADILA HASSIM:** How was his condition at that time? I mean his health condition.

**JABULILE HLATSHWAYO:** He was not sick – he was well. He was the Sizwe we were used to.

**ADV ADILA HASSIM:** What was the Sizwe you were used to? Was he – can you tell us a little bit about him and his disability?

**JABULILE HLATSHWAYO:** Sizwe could not speak, he could not feed himself properly – there must always be someone to monitor him, even when we give him medication, there must be someone to monitor him, so that we see that indeed she swallows the tablets. He was a boy who was always happy who would like singing and dancing.

**ARBITRATOR JUSTICE MOSENEKE:** Could he walk on his own?

**JABULILE HLATSHWAYO:** Yes indeed Justice.

10 **ARBITRATOR JUSTICE MOSENEKE:** Could he like run?

**JABULILE HLATSHWAYO:** Yes Justice, he was able to run even at Life Esidimeni he was an athlete.

**ARBITRATOR JUSTICE MOSENEKE:** When you talked to him, did he understand you?

15 **JABULILE HLATSHWAYO:** Yes, indeed Justice – he was not able to respond, but he will make these sounds, because we knew him, so we could understand what those responses are.

**ARBITRATOR JUSTICE MOSENEKE:** Could he bath himself? Could he put himself to bed?

20 **JABULILE HLATSHWAYO:** Yes, that is correct Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Thanks Counsel.

**ADV ADILA HASSIM:** Mrs Hlatshwayo, there is a photograph in front of you that is numbered ELAH38 – Justice, it is a photograph that is in your exhibit bundle ELAH38.

**ARBITRATOR JUSTICE MOSENEKE:** I'm there, thank you.

5 **ADV ADILA HASSIM:** Is this a photograph of Sizwe?

**JABULILE HLATSHWAYO:** Yes Counsel.

**ADV ADILA HASSIM:** When was this taken?

**JABULILE HLATSHWAYO:** 24<sup>th</sup> September 2014 at Waverley.

**ARBITRATOR JUSTICE MOSENEKE:** There we can see your child dancing there.

10 **JABULILE HLATSHWAYO:** Yes Justice.

**ADV ADILA HASSIM:** Did you take this – who took this photograph?

**JABULILE HLATSHWAYO:** Staff at Waverley.

**ADV ADILA HASSIM:** He looks very happy?

**JABULILE HLATSHWAYO:** That is how he was, Sizwe.

15 **ARBITRATOR JUSTICE MOSENEKE:** So, he could follow the drum, rhythm and the music and could do traditional dancing?

**JABULILE HLATSHWAYO:** As long as he could hear the sound and the drum beat, then he could do this rhythms – I mean his movements was not rhythmic, but as long as he could get the sound, he was very happy for that. Then he could dance

20 to that.

**ARBITRATOR JUSTICE MOSENEKE:** Did he indeed sing without him listening to that drumbeat – could he indeed dance without following the rhythm?

**JABULILE HLATSHWAYO:** Yes Justice

**ADV ADILA HASSIM:** So this was taken at Life Esidimeni at 2014 – is this typical  
5 of Sizwe and his personality and his state of health whilst he was at Life Esidimeni?

**JABULILE HLATSHWAYO:** Yes Counsel, he was very frank. Even the doctors liked him so much that in the mornings when the doctors where making the rounds, he will accompany the doctors and others will call him doctor Hlatshwayo.

**ADV ADILA HASSIM:** So he was happy with his surroundings and did he look  
10 forward to your visits?

**JABULILE HLATSHWAYO:** Yes Counsel.

**ADV ADILA HASSIM:** And you say the last time you saw him was in January  
2016?

**JABULILE HLATSHWAYO:** Yes

**ADV ADILA HASSIM:** Were you informed that he would be moved from Waverley?  
15

**JABULILE HLATSHWAYO:** When his uncle went to fetch him, he was told there is a possibility that Life Esidimeni was going to be closed, but we were going to be informed what happens.

**ADV ADILA HASSIM:** Were you informed when he was moved?

**JABULILE HLATSHWAYO:** No, they never came to inform us.  
20

**ADV ADILA HASSIM:** Did you attempt to visit him again at Waverley?

**JABULILE HLATSHWAYO:** After January when he went back to Waverley, I got a job – so, I was not able to go and see him. It was his uncle – I did not see him in January and there was a meeting, which was called by the MEC in February.

5 **ADV ADILA HASSIM:** When next did you see Sizwe?

**JABULILE HLATSHWAYO:** When I went to identify his corpse at Avbob in Pretoria.

**ADV ADILA HASSIM:** Did you not see him before that at any other NGO?

10 **JABULILE HLATSHWAYO:** Before that I went to look for him at the NGO, which was called Undirile(?) as I was told he was moved to a NGO called Undirile(?) in Hammanskraal. When I arrived there, the name Undirile(?) was not written there, but when I arrived there, I was told I only had 5 minutes to see him.

**ADV ADILA HASSIM:** And what did it look like – this facility in Hammanskraal?

15 **JABULILE HLATSHWAYO:** It was not a good place for keeping patients, because it looked like a very old place, which they were still planning on renovating.

**ADV ADILA HASSIM:** Were there other patients at this facility?

20 **JABULILE HLATSHWAYO:** I did not see, because at the time I did not see if there were other patients, because they went to fetch Sizwe and I was told they were going to give me only 5 minutes and the staff there said they were busy with the files – there were other patients, who are waiting for the files.

**ADV ADILA HASSIM:** Were there nurses at this NGO?

**JABULILE HLATSHWAYO:** I did not see a nurse, neither did I see a doctor I only saw a lady who said she was a social worker.

**ADV ADILA HASSIM:** And, when you saw Sizwe, was he brought to a visiting area to see you or did you go to where he was resting?

5 **JABULILE HLATSHWAYO:** He was brought to that place that they said was an office and they said I must wait – I did not go inside.

**ADV ADILA HASSIM:** And how did Sizwe seem to you when they brought him to you?

**JABULILE HLATSHWAYO:** That day I saw that there were some changes,  
10 because he has lost some weight and the clothing that he had, the track pants and the top he was wearing was dirty and he looked like he spent some days without bathing and Sizwe was always happy, but on that day when I left there he was not in a good condition and when I left I was not even to give him a hug as I usually do, because of that situation – the way he looked like.

15 **ADV ADILA HASSIM:** Was he wearing his own clothes?

**JABULILE HLATSHWAYO:** No, he was not wearing his clothes. Those clothes that he took with him in January, they were nowhere to be seen and the shoes as well.

**ADV ADILA HASSIM:** And, what did you say to Sizwe before you left?

20 **JABULILE HLATSHWAYO:** I bid him farewell and I said: my boy, mommy will come and take you, so that we can go and stay home.

**ADV ADILA HASSIM:** And you say this was around March 2016?

**JABULILE HLATSHWAYO:** Yes Council, it was around March April 2016.

**ADV ADILA HASSIM:** When next did you see Sizwe?

**ARBITRATOR JUSTICE MOSENEKE:** Sorry to interrupt Counsel and say – where  
5 were you living then – where was your home?

**JABULILE HLATSHWAYO:** I stayed in Tskane(?) in Brakpan.

**ARBITRATOR JUSTICE MOSENEKE:** So, you had to travel all the way to get to  
Hammankraal?

**JABULILE HLATSHWAYO:** Yes Justice.

10 **ARBITRATOR JUSTICE MOSENEKE:** Did anybody tell you why he has to be  
moved to – in my estimation, easy over 100 kilometers from his home?

**JABULILE HLATSHWAYO:** No-one explained that to me Justice.

**ARBITRATOR JUSTICE MOSENEKE:** How was this place? I mean, its structure –  
tell me about the building. Was it a home or like a school, clinic – what place was it?

15 **JABULILE HLATSHWAYO:** It looked like a hostel or an old dilapidated clinic.

**ARBITRATOR JUSTICE MOSENEKE:** Now, you said the name you were given  
was Udirile(?) – did you find out what the actual name of the NGO was?

**JABULILE HLATSHWAYO:** No-one was prepared to answer to talk to me,  
because they took the boy to me and the only person who brought the boy to me he  
20 also came to fetch him and back to where he was kept.

**ADV ADILA HASSIM:** Was Sizwe moved from Hammanskraal to any other NGO after you saw him?

**JABULILE HLATSHWAYO:** When I went back there two weeks later, he was moved and I was told that place was closed – I only find a gentleman at the gate  
5 and he did not have a uniform, he said he was security and he gave me the phone number so that I can make a call and find out the whereabouts of Sizwe, because he informed me that the other patients were taken away from this institutions.

**ADV ADILA HASSIM:** Mrs Hlatshwayo, there is a file in front of you, numbered 9 – can I ask you to turn to page 3219 please? Do you have it?

10 **JABULILE HLATSHWAYO:** Yes Counsel.

**ADV ADILA HASSIM:** Justice, do you have it?

**ARBITRATOR JUSTICE MOSENEKE:** Yes, I have. 3218 and 3219 I've got, ja.

**ADV ADILA HASSIM:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** Thank you.

15 **ADV ADILA HASSIM:** 3219 is an affidavit that is disposed to by a Daphney Ndhlovu – do you see that?

**JABULILE HLATSHWAYO:** Yes Counsel.

**ADV ADILA HASSIM:** And she says – I am not going to read all of the information, like the ID numbers – you can follow with me on that page – she says: *I hereby*  
20 *confirm that Sizwe Hlatshwayo, ID number, was placed in Cullinan Care and Rehabilitation Centre on 23<sup>rd</sup> May 2016 and discharged to Anchor NGO on 23<sup>rd</sup>*

*June 2016. According to the Anchor NGO manager, Sizwe Hlatshwayo died on 10<sup>th</sup> September 2016. Did you know that Sizwe was moved once again from Hammanskraal to Cullinan Care and Rehabilitation Centre and then from the Cullinan Care Centre to Anchor? Did you know about the sequence of moves?*

5 **JABULILE HLATSHWAYO:** No Counsel, I was not informed about that.

**ADV ADILA HASSIM:** So, when next did you see Sizwe?

**JABULILE HLATSHWAYO:** On the 5<sup>th</sup> of October 2016, when I went to identify his body at Avbob in Pretoria.

**ADV ADILA HASSIM:** Who informed you that Sizwe had passed away?

10 **JABULILE HLATSHWAYO:** I got a call from my mom, who said that I must go to my mom-in-law at my in-laws, that is when I arrived there, they told me that Daphney has told them that Sizwe had passed away.

**ADV ADILA HASSIM:** And, on what day was this that Daphney Ndhlovu called your family?

15 **JABULILE HLATSHWAYO:** 3<sup>rd</sup> October 2016.

**ADV ADILA HASSIM:** But Sizwe passed away on 10<sup>th</sup> September 2016. Did she explain why they took so long to inform the family of his death?

**JABULILE HLATSHWAYO:** Daphney came to Tskane(?) and then she met with the uncle, Isaac, who gave her the directions and they met at work and that is  
20 where she heard the news and the uncle asked why Sizwe, why they only informing them now, since Sizwe passed away on the 10<sup>th</sup> of September?

**ADV ADILA HASSIM:** She did not have the contact details?

**JABULILE HLATSHWAYO:** Yes Counsel, she responded that she did not have the contact details of the family.

**ADV ADILA HASSIM:** And, did she explain what the cause of death was?

5 **JABULILE HLATSHWAYO:** She said that Sizwe was complaining about stomach cramps.

**ADV ADILA HASSIM:** Anything else?

**JABULILE HLATSHWAYO:** No Counsel.

**ADV ADILA HASSIM:** So – I just want to clarify – Mrs Ndhlovu informed you that  
10 Sizwe died from stomach cramps?

**JABULILE HLATSHWAYO:** Yes Counsel, that is what she said.

**ADV ADILA HASSIM:** Did you ask to go to Anchor to see where Sizwe had passed away?

**JABULILE HLATSHWAYO:** On the 4<sup>th</sup> of October, when we went to Cullinan and  
15 we went to see Daphney, she called the Anchor manager. I asked the manager to [inaudible 38:58] the following we were requested to come to where Sizwe passed on, so that we can perform our traditional rituals.

**ADV ADILA HASSIM:** And then, did you go?

**JABULILE HLATSHWAYO:** Yes, we did Counsel.

**ADV ADILA HASSIM:** Can you describe to us what the facility looks like – the Anchor NGO?

**JABULILE HLATSHWAYO:** The first thing when we come there what we experienced was we hear the smell of urine – it was like it was, it was just urine on  
5 that place, because it was smelling a lot.

**ARBITRATOR JUSTICE MOSENEKE:** Well, you can't hear the urine interpreter.

**INTERPRETER:** Come again sir – I said smell, you can smell the urine. I am sorry Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Yes okay, the witness says when they  
10 came off they were met with a strong smell of urine, isn't it?

**INTERPRETER:** Yes, that's right Counsellor.

**JABULILE HLATSHWAYO:** ...and we were led by a security to go where Daphney – Dorothy was (I am sorry about that), I think it was because they did not want us to go inside where other patients were kept.

15 **ADV ADILA HASSIM:** So, you didn't enter the ward?

**JABULILE HLATSHWAYO:** We went straight into the ward where Sizwe was sleeping and they showed us the bed where Sizwe was sleeping.

**ADV ADILA HASSIM:** And how many other patients were in the ward?

**JABULILE HLATSHWAYO:** When we were going into that room, we went pass  
20 another small room – it looked like a dining room – all the patients were put into that room and I think they were about 20.

**ADV ADILA HASSIM:** Were there men and women?

**JABULILE HLATSHWAYO:** Males only.

**ADV ADILA HASSIM:** Males only?

**JABULILE HLATSHWAYO:** Yes, that's correct.

5 **ADV ADILA HASSIM:** And, you say you've met with Ms Dorothy Franks?

**JABULILE HLATSHWAYO:** Yes Counsel.

**ADV ADILA HASSIM:** Did she accompany you into the ward?

**JABULILE HLATSHWAYO:** Yes Counsel.

**ARBITRATOR JUSTICE MOSENEKE:** That is the same one who testified here?

10 **JABULILE HLATSHWAYO:** Yes, that's the same one Justice. She went in with us, but she remained behind and we went with another male who was introduced to us as a male nurse.

**ADV ADILA HASSIM:** But, when you spoke to Dorothy Franks, did she – to be clear – she was the manager of Anchor?

15 **JABULILE HLATSHWAYO:** Yes indeed, because we were informed on the 4<sup>th</sup> by Daphney that it was Dorothy Franks and she also subsequently introduced herself as Dorothy Franks.

**ADV ADILA HASSIM:** Did she explain to you how Sizwe died?

**JABULILE HLATSHWAYO:** She said she was not there, she was at home – she  
20 said she received a call to say that Sizwe had passed on.

**ADV ADILA HASSIM:** Was he sick before he passed away?

**JABULILE HLATSHWAYO:** According to Daphney and her PA, Natasha, they said that he complained about stomach cramps and they took him to the hospital, but they refused to admit him, because he did not have ID and he went back to Anchor.

5 **ADV ADILA HASSIM:** Did Sizwe have his ID when he was at Life Esidimeni?

**JABULILE HLATSHWAYO:** Yes, he did have one – it was applied at Life Esidimeni – here is the ID here. He got it on 21<sup>st</sup> June 2006.

**ADV ADILA HASSIM:** And, did you ask Dorothy Franks why they did not have his ID?

10 **JABULILE HLATSHWAYO:** Yes, I did ask her. He said that her response was that all the patients which were transferred from CCRC had no medical files or negative they had their ID's.

**ADV ADILA HASSIM:** Did Sizwe receive his medication while he was at Anchor?

15 **JABULILE HLATSHWAYO:** I don't think that he was taking medication, because they say he did not have the medical record – how will they know what medication must he take?

**ADV ADILA HASSIM:** And, Daphney Ndhlovu being the social worker at CCRC, did she give you any further information – did she have his medical files?

20 **JABULILE HLATSHWAYO:** When we asked Daphney Ndlovu on the 4<sup>th</sup> when we arrived there, he responded by saying that he did not have the medical file from Esidimeni. The file which we saw, I think it only had 2 pages. He said that was the

file which was opened there at Cullinan. I think – in my view – that Daphney compiled that file on the 3<sup>rd</sup> there, so that she was going to mislead us about the file.

**ADV ADILA HASSIM:** Where was Sizwe's body at this time?

5 **JABULILE HLATSHWAYO:** We asked and we were told that the body was at Avbob in Bronkhorstspuit.

**ADV ADILA HASSIM:** Did they explain to you why they took his body to Bronkhorstspuit?

10 **JABULILE HLATSHWAYO:** When we asked Daphney, he said he does not know – she does not know, because she is not a social worker – she is a social worker at CCRC, not at Anchor – she was just helping them to trace the family. And, when we asked Dorothy, he said he knew the owner of Avbob, Wynand, and that is when he requested him to take him there – the corpse.

**ADV ADILA HASSIM:** Did she say that is the funeral parlour she used regularly?

15 **JABULILE HLATSHWAYO:** No, he did not mention that – she did not mention that.

**ADV ADILA HASSIM:** Did you then – we were just talking about - you were at Anchor and what you witnessed while at Anchor and the ritual that needed to take place?

20 **JABULILE HLATSHWAYO:** Yes Counsel.

**ADV ADILA HASSIM:** Once you have completed that ritual, where did you go?

**JABULILE HLATSHWAYO:** Dorothy said he will take us to the mortuary where the corpse was and he phoned Wynand and he said the corpse was already moved to Avbob in Pretoria and that is where Dorothy accompanied us to Pretoria.

**ADV ADILA HASSIM:** And who identified Sizwe's body?

5 **JABULILE HLATSHWAYO:** It was myself and his uncles – 3 uncles.

**ADV ADILA HASSIM:** And how did Sizwe's body appear to you?

**JABULILE HLATSHWAYO:** When we arrived there, we only saw the face – it was only the face that was not covered, otherwise the whole body was covered and they have tied these black very strong belt which they use for people who are mentally ill  
10 at the hospitals. We only saw the face, because it was not covered. The rest of the body was covered.

**ARBITRATOR JUSTICE MOSENEKE:** The black is what is called a straightjacket – is it? That is the one that is used to restrain movement of a person?

**JABULILE HLATSHWAYO:** Yes Justice, thank you very much.

15 **ARBITRATOR JUSTICE MOSENEKE:** Did anyone tell you why he was in a straightjacket?

**JABULILE HLATSHWAYO:** It was only the family in that room – we tried to ask, but no-one came to give us answers and there was no-one in there, it was only us as the family members.

20 **ADV ADILA HASSIM:** And, was he on a table?

**JABULILE HLATSHWAYO:** Yes Counsel.

**ADV ADILA HASSIM:** And, was the room cold?

**JABULILE HLATSHWAYO:** No, it was just a room with normal temperature.

**ADV ADILA HASSIM:** When did you – did you take Sizwe's body from Avbob?

**JABULILE HLATSHWAYO:** On the 5<sup>th</sup> of October and we were fighting, because  
5 they did not want to hand over the corpse.

**ADV ADILA HASSIM:** Why not?

**JABULILE HLATSHWAYO:** As we were waiting for them to fill in the forms, so that  
we can take the corpse – we were waiting for Wynand from Bronkhorstspuit,  
because he promised that he was going to meet us in Pretoria. The receptionist  
10 from Avbob came – that is when he said that, he told Moses that – in fact – they  
must not release the corpse, because he wanted money from 10<sup>th</sup> September to 5<sup>th</sup>  
October, because they must not release the corpse before the money was paid.

**ADV ADILA HASSIM:** How much was owing to the funeral parlour, to Avbob for  
storing the body for all that time?

15 **JABULILE HLATSHWAYO:** I don't remember them telling us how much it was.

**ADV ADILA HASSIM:** But, did the family pay Avbob in order to retrieve Sizwe's  
body?

**JABULILE HLATSHWAYO:** I went back to the receptionist and told him to call  
Wynand, because we were trying to call Wynand – he was not responding, and I  
20 said you must tell him that I don't know him and he does not know me – I did not

give him consent to take the corpse of my child, I am not going to pay any money –  
I am going to take the body of my child.

**ADV ADILA HASSIM:** And what did he say to you?

**JABULILE HLATSHWAYO:** He came – he called Moses and asked Moses how  
5 much did the funeral parlour which we have arranged, how much did they charge  
us. Then Moses told him and then he said that funeral parlour was very expensive  
and that he can give us cheaper rates – R4500.00 for the funeral. And Moses said  
no, I cannot make a decision on my own, I must first consult other family members,  
so that we can make a collective decision and then I'll come back to you. And I told  
10 Moses that when Wynand called again, then please tell him that I say No thanks,  
but no thanks, because we have already made arrangements with this funeral  
parlour. So, who is going to pay for the expenses, because he came with us from  
Brakpan.

**ARBITRATOR JUSTICE MOSENEKE:** And, where was Ms Dorothy Franks in all  
15 this?

**JABULILE HLATSHWAYO:** When we arrived there we were together when we  
went to see the corpse, but when we came back she was nowhere to be seen.

**ADV ADILA HASSIM:** Did you – were you able to eventually take Sizwe's body  
from Avbob to your own funeral parlour?

20 **JABULILE HLATSHWAYO:** When Dorothy realised that we were fighting that as a  
family and then she committed to pay the cost to Wynand – it was only then that  
they released the body.

**ADV ADILA HASSIM:** So, when did you remove Sizwe's body from Avbob? Was it on the same day or was it on another day?

**JABULILE HLATSHWAYO:** Yes, the same day – 5<sup>th</sup> October.

**ADV ADILA HASSIM:** And, when were you planning to bury Sizwe?

5 **JABULILE HLATSHWAYO:** We were planning to bury him on the 7<sup>th</sup> of October 2016 – it was on a Friday, because we realised he had been kept for a long time at the mortuary.

**ADV ADILA HASSIM:** However, we know from another form that has been provided to us – that's exhibit ELAH 4 – and it is page 3 of that exhibit, the 3<sup>rd</sup> page.

10 Do you have it?

**JABULILE HLATSHWAYO:** Yes Counsel.

**ADV ADILA HASSIM:** 3 names from the bottom – you will see Sizwe's name, Sizwe Hlatshwayo – yes?

**JABULILE HLATSHWAYO:** Yes Counsel.

15 **ADV ADILA HASSIM:** And if you follow along the row, it says he was registered at Anchor Home and it has the date of death, place of death Anchor and then under provisional type of death it says provisional unnatural cause, awaiting post-inquest finality. Do you see that? And then, in the next column under where the post-mortem was done, it is recorded yes.

20 **JABULILE HLATSHWAYO:** Yes, I can see that.

**ADV ADILA HASSIM:** Having looked at that, can I please ask you – in the file that is before you, the file 9...

**ARBITRATOR JUSTICE MOSENEKE:** Before you lead that exhibit Counsel, 150 days refers to what – the stay at Anchor only, is it?

5 **ADV ADILA HASSIM:** Well Justice, I was going to get there – I just want to compare this with another notice of death that is in the record.

**ARBITRATOR JUSTICE MOSENEKE:** Sure, as long as we come back to it, it is fine.

**ADV ADILA HASSIM:** I will come back to it shortly. Page 3213 of file 9.

10 **JABULILE HLATSHWAYO:** Yes, we are there Counsel.

**ADV ADILA HASSIM:** Page 3213 is a page from the notice of death and under paragraph 77, with the heading Causes of Death and in Part 1 of paragraph 77, it says immediate cause – do you see that?

**JABULILE HLATSHWAYO:** Yes Counsel.

15 **ADV ADILA HASSIM:** And it is handwritten next to it is pneumonia.

**JABULILE HLATSHWAYO:** Yes, I see that Counsel.

**ADV ADILA HASSIM:** So, we have a notice of death form that list the cause of death as pneumonia, but we also know that there has been a post-mortem that's been performed – have you received the results of the post-mortem report?

20 **JABULILE HLATSHWAYO:** No, we haven't received that report Counsel.

**ADV ADILA HASSIM:** So, for as far as you are aware, the cause of death at this point is provisional unnatural cause?

**JABULILE HLATSHWAYO:** Yes, that is correct Counsel.

**ADV ADILA HASSIM:** Justice, your question as to whether the length of stay for  
5 150 days relates to Anchor can't be correct, because the document that we had with  
regard to a little bit earlier with the witness's testimony – the affidavit by Mrs  
Daphney Ndhlovu at page 3219 tells us that Sizwe was moved to Anchor on the  
23<sup>rd</sup> of June 2016 and we know that he passed away on the 10<sup>th</sup> of September  
2016, which is less than 3 months later – less than 90 days. So, he could not have  
10 been at Anchor for 150 days.

**ARBITRATOR JUSTICE MOSENEKE:** You see, this refers to the 23<sup>rd</sup> May 2016

**ADV ADILA HASSIM:** Well, the 23<sup>rd</sup> May was when he was admitted to Cullinan  
Care and Rehab Centre.

**ARBITRATOR JUSTICE MOSENEKE:** Yes.

15 **ADV ADILA HASSIM:** 23<sup>rd</sup> June was when he was [inaudible 1:09:15] to Anchor  
NGO.

**ARBITRATOR JUSTICE MOSENEKE:** Do we know what Undirile(?) where's this  
Undirile(?) and which NGO is that?

**ADV ADILA HASSIM:** We don't know anything more than that there is an NGO in  
20 Hammanskraal that seems to be called Undirile(?) – whether it is its correct name  
or not – we have not been able to establish Justice.

**ADV ADILA HASSIM:** Mrs Hlatshwayo, did any government officials contact you after you have been informed of Sizwe's death?

**JABULILE HLATSHWAYO:** On the 5<sup>th</sup> of October, when we came back from Pretoria, I received phone calls from Dr Lebethe and Dr Mahlamela, Dr Lebethe  
5 was asking for directions, saying they wanted to come at my home. CCRC CEO, Mathilda Malasa also gave me a call.

**ADV ADILA HASSIM:** And, did they visit you?

**JABULILE HLATSHWAYO:** The CEO called and promised to come, but she never showed up. Dr Lebethe and Dr Mahlamela did come to visit.

10 **ADV ADILA HASSIM:** And, why did they want to see you?

**JABULILE HLATSHWAYO:** When they arrived there, they pretended as if they were there for console us, but they just wanted to take the body of my child a day before his funeral for a post-mortem.

**ADV ADILA HASSIM:** And did you con... well, first of all, did they explain why they  
15 wanted to conduct a post-mortem on Sizwe's body?

**JABULILE HLATSHWAYO:** They said that the post-mortem was supposed to have been conducted after Sizwe passed on. I said to them Sizwe passed on on the  
10<sup>th</sup> of September, why now you are coming wanting to take the body for a post-mortem, because Sizwe has passed on almost a month and now you want to take  
20 Sizwe's body for a post-mortem just one day before the funeral?

**ADV ADILA HASSIM:** And how did they explain this delay?

**JABULILE HLATSHWAYO:** They said Sizwe was not at a government mortuary and the government didn't know that Sizwe had passed on.

**ADV ADILA HASSIM:** They did know that Sizwe was in the care of the government?

5 **JABULILE HLATSHWAYO:** Yes they did know that.

**ADV ADILA HASSIM:** But they did not know that he had passed on?

**JABULILE HLATSHWAYO:** That's what they said – they did not know.

**ADV ADILA HASSIM:** And he was not kept in a government mortuary, he was sent to a private funeral parlour?

10 **JABULILE HLATSHWAYO:** Yes, that is correct Counsel.

**ADV ADILA HASSIM:** Did you consent to the post-mortem being conducted?

**JABULILE HLATSHWAYO:** First we were having doubts as a family to give them the body so that they can go and conduct a post-mortem. I told Dr Lebethe that we were going to bury the child tomorrow, I think, as I see it, that we are going to  
15 continue without a post-mortem being conducted. He said that won't help us, because there is an inquest docket, even if you can continue with the funeral, he was going to be exhumed.

**ADV ADILA HASSIM:** What happened next?

**JABULILE HLATSHWAYO:** I requested to have a meeting with my family and  
20 when we were in that meeting family meeting that is when I said to them: no, let us allow them to go and conduct the post-mortem, because it was going to be

extremely traumatising if we go on with the funeral and then he was going to be exhumed later – that was going to be very painful. So, the best thing was just to allow them to do their post-mortem.

**ADV ADILA HASSIM:** And, did they – did you convey that to them – to the  
5 officials?

**JABULILE HLATSHWAYO:** I did tell them that yes you can take the body and do your post-mortem, but on one condition that by half past 4 you must bring back the body, because our tradition the corpse must come into the yard by 5 o'clock, oh by 4:30, sorry.

10 **ADV ADILA HASSIM:** And, did they comply with your condition?

**JABULILE HLATSHWAYO:** Yes Dr Mahlamela promised that he would contact me and he said that he will do as we agreed to bring the body by half past 4, but that never happened.

**ARBITRATOR JUSTICE MOSENEKE:** Was that half past 4 of the same day?

15 **JABULILE HLATSHWAYO:** Yes, the same day, on the 6<sup>th</sup> of October.

**ARBITRATOR JUSTICE MOSENEKE:** Did they promise that they will find a pathologist and do the post-mortem the same day?

**JABULILE HLATSHWAYO:** They said that it was not possible that it takes longer than that and I said no, I have set my condition. That is when they called the MEC  
20 and the MEC promised that the post-mortem was going to be arranged there and then.

**ARBITRATOR JUSTICE MOSENEKE:** Which MEC was that?

**JABULILE HLATSHWAYO:** Ms Qedani Mahlangu

**ARBITRATOR JUSTICE MOSENEKE:** How do you know that they phoned her?

**JABULILE HLATSHWAYO:** They requested to go outside to have a meeting and  
5 then called the MEC and informed the MEC of the condition for the body.

**ARBITRATOR JUSTICE MOSENEKE:** Then they came back and confirmed that  
they talked to the MEC and she has agreed?

**JABULILE HLATSHWAYO:** Yes, they did Justice, they gave us a report back. I  
also went outside and I also heard the conversation of Dr Lebethe.

10 **ADV ADILA HASSIM:** And, when did they return Sizwe's body to you?

**JABULILE HLATSHWAYO:** The funeral parlour in Pretoria called me around 7  
o'clock – oh, the funeral parlour we've arranged they have called us around 7  
o'clock that he is indeed there, the corpse has arrived.

**ADV ADILA HASSIM:** Were you able to continue with the burial of Sizwe the next  
15 day?

**JABULILE HLATSHWAYO:** Yes, we were able.

**ADV ADILA HASSIM:** And, who paid for the funeral expenses?

**JABULILE HLATSHWAYO:** His uncles.

**ADV ADILA HASSIM:** Do you know how much it cost the family?

20 **JABULILE HLATSHWAYO:** R50 000.00 plus

**ADV ADILA HASSIM:** And when Dr Mahlemela and Dr Lebethe was at your home – did they say anything else to you, other than they want to conduct the post-mortem?

5 **JABULILE HLATSHWAYO:** Dr Lebethe said to me that he was representing the government and he said that you can insult me or assault me, I am here to represent the government and MEC – I mean Mahlemela called the MEC and the MEC called me to ask whether he can provide us with food parcels?

**ARBITRATOR JUSTICE MOSENEKE:** Did the MEC talk to you directly?

**JABULILE HLATSHWAYO:** No, that message was relayed by Dr Mahlemela.

10 **ADV ADILA HASSIM:** Did you accept the offer of food parcels?

**JABULILE HLATSHWAYO:** I did not accept their offer and told them to shove it where the sun doesn't shine and I am sorry for the words that I have just used.

**ADV ADILA HASSIM:** Mrs Hlatshwayo, this has been very difficult for you and your family?

15 **ARBITRATOR JUSTICE MOSENEKE:** I've never heard that phrase used before, I must admit.

**ADV ADILA HASSIM:** Is there anything else you would like to add regarding the circumstances of Sizwe's transfer from Life Esidimeni and his death?

20 **JABULILE HLATSHWAYO:** According to the evidence that has been heard since the beginning of these hearings there was evidence lead to the fact that we as families did not love our family members, who were mentally ill patients, because

one of the witnesses said that we were dumping our loved ones at their place – that is not true, because Sizwe was not my biological son, but I loved him so much – I took him like my own child. I even made the efforts to take him to the special school. If I didn't love him, I would not make those efforts. To me that was very

5 traumatizing, because it was not true. And the other thing is, we were told that they did not have the medical file, but when we went there to Waverley, we received that file and I was asking myself: where did that file come from, because we were told initially that there was no medical records. She said, they called Sizwe's uncle on the 23<sup>rd</sup> of June to say that Sizwe was transferred to Anchor, but she could not

10 indicate where did she get those numbers those phone numbers, which she used on the 23<sup>rd</sup> – where did she get those numbers from? Because – Sizwe did not have a medical file and the other thing I want to know is from 23<sup>rd</sup> of June up to the 3<sup>rd</sup> of October because they said there was no medical file, but those medical files were found – where did they come from, because it seems like they disappear and they

15 appear again – so, I don't understand this. And another thing that makes me angry is that when we asked him when we asked her how did she get hold of the uncles' numbers, they said we did call the hospital and that is where he got these numbers and I was thinking how was that possible, because we just cannot wake up at night and call the hospital. Sizwe stays for 16 years of his life at Life Esidimeni, but it took

20 the government only less than 6 months to kill my child my son.

**ARBITRATOR JUSTICE MOSENEKE:** And his birthday would have come up on the 21<sup>st</sup> of November, isn't it? And he was going to turn only 30 years?

**JABULILE HLATSHWAYO:** Yes Justice, he would have been 30 years old.

**ARBITRATOR JUSTICE MOSENEKE:** Counsel?

**ADV ADILA HASSIM:** There are no further questions from me at this stage Justice Moseneke, thank you.

**ARBITRATOR JUSTICE MOSENEKE:** Counsel Crouse?

5 **LEGAL AID LILLA CROUSE:** Thank you Justice Moseneke. Ma'am, have you gone for counselling?

**JABULILE HLATSHWAYO:** No.

**LEGAL AID LILLA CROUSE:** Do you want counselling?

**JABULILE HLATSHWAYO:** Yes, I would like that.

10 **LEGAL AID LILLA CROUSE:** Now I know I've said I would only ask two questions, but I am going to ask you one more question, if you ...

**ARBITRATOR JUSTICE MOSENEKE:** Please – you can go for as long as it is convenient – sorry, not convenient, but necessary.

15 **LEGAL AID LILLA CROUSE:** Thank you. Ma'am, I understood that you were very upset when food parcels were offered to you and your response showed that you were very upset. Could you just take us through your thought process of why that made you so upset, so that we can understand that please?

20 **JABULILE HLATSHWAYO:** I lost a child who was kept up at the mortuary for almost a month without me being informed. I went to Cullinan the following day, wanting to take the corpse of my child – no-one was helpful there. We were supposed to go back again in Pretoria on the 3<sup>rd</sup> day on the 5<sup>th</sup>. There was no-one

from government on our side, because when we wanted the Notice of Death form, we did not get it on that day.

**ARBITRATOR JUSTICE MOSENEKE:** Well, it was completed by Dorothy Franks who at the time or is it Rachel Kenoshi – let's look at that where is that Counsellor?

5 Well, let's just go and look – I was struck by the fact that there are many notices of deaths here – there are at least 3 versions – can you see that? The one is 3210...

**ADV ADILA HASSIM:** 3210 is the first page, then there is...

**ARBITRATOR JUSTICE MOSENEKE:** 3211, Part B

10 **ADV ADILA HASSIM:** then there is 3211, Part B, yes and that's where, under paragraph – under Part B, paragraph 24

**ARBITRATOR JUSTICE MOSENEKE:** Well, look at Part D – you were right about the medical practitioner, but look at Part D.

**ADV ADILA HASSIM:** Part D is the particulars of the informant – so, it would be the person who would have reported ...

15 **ARBITRATOR JUSTICE MOSENEKE:** Yeah, but what is it doing there in September 2016, when Anchor had already been shut down? And that is the signature, presumably, on the left?

**ADV ADILA HASSIM:** Yes

20 **ARBITRATOR JUSTICE MOSENEKE:** And, did your son have a social grant card?

**JABULILE HLATSHWAYO:** According to my knowledge, no Justice.

**ARBITRATOR JUSTICE MOSENEKE:** But Counsel, I am just making the point that at that time – it just struck me that she was still completing forms, but she....

**ADV ADILA HASSIM:** That is correct – Anchor was closed in early September, but it will seem that she was still lingering at the time of Sizwe’s death.

5 **ARBITRATOR JUSTICE MOSENEKE:** And, in October she still goes to Avbob.

**ADV ADILA HASSIM:** Correct – she remained involved in some fashion and I have no idea what her authority was, but she certainly remained involved and in touch with Avbob funeral parlour.

10 **ARBITRATOR JUSTICE MOSENEKE:** It is just the notion of unlawfulness, where something is under the law, presumably shut down and its manager and NGO just merrily carries on. Not only did they receive the money, which they paid up to February, but she carries on merrily and she negotiates with funeral parlours and she fills in forms and as though her operation had not been disqualified.

**ADV ADILA HASSIM:** Justice Moseneke...

15 **ARBITRATOR JUSTICE MOSENEKE:** Yes?

**ADV ADILA HASSIM:** ...it may assist if you – for you to make a note that on the 30<sup>th</sup> of October – which was Day 15 of these hearings – on the transcript of that day on page 126 of that transcript ...

**ARBITRATOR JUSTICE MOSENEKE:** Yes?

20 **ADV ADILA HASSIM:** ...around line, no – at line 10 of page 126 – this was the day on which Ms Franks gave her testimony – the one day that I was not present at the

hearings – and she confirms at that point in the transcript, that she left the premises on 7<sup>th</sup> November.

**ARBITRATOR JUSTICE MOSENEKE:** Well, let's look at the Public Protector's report about when was the operation, Anchor Life, shut down. I may be wrong, but  
5 my recollection is it was earlier than that. Yes Counsel?

**EVIDENCE LEADER PATRICK NGUTSHANA:** Justice Moseneke, the Ombuds report says October – at the end of October. Although evidence says on 7<sup>th</sup> November

**ARBITRATOR JUSTICE MOSENEKE:** What part of the Ombuds report is that,  
10 which paragraph?

**EVIDENCE LEADER PATRICK NGUTSHANA:** I can take you to it...

**ARBITRATOR JUSTICE MOSENEKE:** You see the Ombuds investigation started when?

**ADV ADILA HASSIM:** I don't know whether I am interrupting my colleague –  
15 Justice Moseneke, page 3 of the Ombuds report ...

**ARBITRATOR JUSTICE MOSENEKE:** Thank you, I'll look ...

**ADV ADILA HASSIM:** Oh, I just lost it – I had it a minute ago – on the right hand side column, the 4<sup>th</sup> paragraph – Anchor Centre...

**ARBITRATOR JUSTICE MOSENEKE:** Yes?

20 **ADV ADILA HASSIM:** Sorry, I'll wait...

**ARBITRATOR JUSTICE MOSENEKE:** On page 33?

**ADV ADILA HASSIM:** Page 33

**ARBITRATOR JUSTICE MOSENEKE:** And which number are we referring to – as paginated or of the report itself?

5 **ADV ADILA HASSIM:** Page 33 of the report itself.

**ARBITRATOR JUSTICE MOSENEKE:** I see Sterkfontein, Weskoppies

**ADV ADILA HASSIM:** Higher up in that column – it is not in bold, it says Anchor Centre...

**ARBITRATOR JUSTICE MOSENEKE:** Yes?

10 **ADV ADILA HASSIM:** Closed on the 31<sup>st</sup> of October.

**ARBITRATOR JUSTICE MOSENEKE:** I see that, yeah, thank you – that's helpful – thanks.

**LEGAL AID LILLA CROUSE:** Justice, maybe if I can be of assistance of your last question – the Ombuds investigation was from October to December 2016.

15 **ARBITRATOR JUSTICE MOSENEKE:** Yes, thank you – that is also helpful. Do you have any more questions?

**LEGAL AID LILLA CROUSE:** The witness hasn't finished answering my question – if we can just give her the opportunity to finish that. Ma'am, you were telling the Honourable Judge why you were so upset about the offer of the food parcels – if  
20 you could just continue, please?

**JABULILE HLATSHWAYO:** When I saw this notice of death, she said it was filled in by the doctor, but when I looked at it, I found that it was filled in by a professional nurse, that is when I said to Daphney, I want to see the doctor who filled in this notice of death. She said the doctors were not present at the hospital and I said we  
5 are asking her for telephone numbers, so that we can call him for us to be able to get the answers. She said that when the doctors are not at the hospital, they do not answer their phone – those are the doctors that work for the government. We asked to see the CEO and we were also told that the CEO was not present. We asked for the numbers of the CEO and we were told the same that the CEO does not respond  
10 to her phone when she is not on duty. The CEO is also working for the government. And eventually after going through such traumatizing experience and then the MEC comes and says and makes this offer of for food parcels – that to me meant that the MEC is equating the life of my son to and as well as the pain and the trauma I went through it was equated with food parcels. Or maybe it was because I'm struggling to  
15 that extend that I would be offered a food parcel when I was in pain because of the loss of my son. That is the reason why I did not accept their food parcels.

**LEGAL AID LILLA CROUSE:** So, I don't want to sum it up too lightly, but your dignity was seriously affected by that offer – could we say that?

**JABULILE HLATSHWAYO:** Yes, that is how I felt Counsel.

20 **LEGAL AID LILLA CROUSE:** Thank you Justice Moseneke, I have no further questions.

**ARBITRATOR JUSTICE MOSENEKE:** You are welcome. Thank you. Counsel?

**ADV DIRK GROENEWALD:** Justice, we don't have a question, but we would like to make a brief observation. On page 3219, the Affidavit of Daphney Ndhlovu, states that Sizwe was admitted at CCRC on the 23<sup>rd</sup> of May 2016 – document ELAH 4, page 3, says that Sizwe was discharged on the 12<sup>th</sup> of May – and then, 5 once again, document ELAH 9, pages 8, says that he was discharged from Life Esidimeni and admitted at CCRC on the 17<sup>th</sup> of May. So, unfortunately, it leaves us with more questions than answers, but clearly there is no clarity as to when Sizwe was indeed discharged from Life Esidimeni and what was the correct date that he was admitted at CCRC. So, hopefully ma'am, before the end of these proceedings, 10 we might get you some answers.

**ARBITRATOR JUSTICE MOSENEKE:** Thank you Counsel, anymore - no?

**ADV DIRK GROENEWALD:** No more questions, thank you Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Very well, thank you. Counsel Ngutshana?

**EVIDENCE LEADER PATRICK NGUTSHANA:** No questions, thank you Justice 15 Moseneke.

**ARBITRATOR JUSTICE MOSENEKE:** Very well, thank you. Tebogo Hutamo – for the State.

**COUNSEL FOR THE STATE TEBOGO HUTAMO:** Thank you Justice. Mrs Hlatshwayo, greetings to you.

20 **JABULILE HLATSHWAYO:** Yes Counsel.

**COUNSEL FOR THE STATE TEBOGO HUTAMO:** The pain and the anger that

you are feeling is quite evident from what you went through. It is indeed unfortunate

that you had to lose your son in the manner which he actually died and we hope

and trust that through this process we should be able to gain strength through our

5 interaction, so that we can be able to find closure in the experiences that all the

family members had to go through. Lastly, I just want to say – let's trust in this

process and in God that we will be able to achieve the process of getting closure to

all the difficulties that everyone has endured. We thank you for the courage that you

have had and it assist everyone to deal with the situation. Thank you so much.

10 There are no questions to the witness Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Thank you. You have the opportunity to

respond, if you want to.

**JABULILE HLATSHWAYO:** Firstly, I wish to get closure and the truth about what

happened about our loved ones. We all know that if someone has passed on that it

15 takes 3 months before the body starts to decompose and the corpse that is decayed

– the one that is called embalment. Sizwe passed away on the 10<sup>th</sup> of October,

but on the 4<sup>th</sup> he went for this embalment – now the question arises – is it true that

Sizwe died on the 10<sup>th</sup> of September?

**ARBITRATOR JUSTICE MOSENEKE:** What do you mean by embalment?

20 **JABULILE HLATSHWAYO:** On the 4<sup>th</sup> of October, when we went there, we were

told the corpse was in Bronkhorstspuit and we were given the numbers of Wynand

so that we can call him. When we called Wynand to ask for directions, he said we

cannot come to Bronkhorstspuit and when we asked why, he said the corpse is no longer with him, but it is at Avbob at Pretoria mortuary. When we asked why, he said that they took the corpse there to put embalmment – according to my understanding, it is the chemical that they use when the corpse is decaying.

5 **ARBITRATOR JUSTICE MOSENEKE:** And, when you ultimately got your son's body, was it at the decay stage or do you say the embalmment delayed the decomposition?

**JABULILE HLATSHWAYO:** On the first day when we saw the corpse in Pretoria it was covered, we could not see the body, because when the uncles went to – let me  
10 just start again Honourable Justice – they were hiding the state of the decaying body, because we did not see the body on the first day when we went to Pretoria – as I have said earlier – now, when the uncles started to wash the body, they observed that there were marks green marks on the body – so I suspect that maybe they wanted to hide the decaying stage.

15 **ARBITRATOR JUSTICE MOSENEKE:** You said it was a very strong stench of ...

**JABULILE HLATSHWAYO:** Yes Justice, that it had a very strong stench of the chemicals.

**ARBITRATOR JUSTICE MOSENEKE:** Very well, but let's go back to where you were – remember, you were responding to Counsel's remarks after he had  
20 apologised on behalf of the State. So, let's not get side tracked by my question – will you repeat your remarks?

**JABULILE HLATSHWAYO:** Okay. I can be very happy when I can find the truth as to when was my son transferred from Life Esidimeni and what is the actual date of death. Well, I hear the apology from the Counsel, but I think the Counsel is just doing his work – I would love to find out the truth one day, because of the pain that we have gone through. So, I think that maybe if those people who are responsible can come in here and give us evidence and tell us the truth as to what exactly happened – maybe I can find peace with regards to this issue. But, if they just send an employee to come and say that, I don't think that will ever bring peace to me. The other thing is – as you know – is that sometimes you can put death away, but we put our people in there so that they can be well taken care of, but it seems these people were only – they only wanted to benefit, they only money to gain from that, because I do not understand why was this and I don't think that I will ever get peace if we don't find closure. If we can have the truth – it is very painful what has happened and especially the MEC, who is also a woman and I would like to believe she has given birth like us other women and we did not expect this from her. We have lost our children, but maybe she still have her own children. I think this was very painful, especially given that this is the government that we have voted for that we have put our trust in it. I think that they must come here and explain and give us the whole truth about this.

20 **ARBITRATOR JUSTICE MOSENEKE:** Okay – so the final one mammie.

**JABULILE HLATSHWAYO:** And lastly, I would like to say I hope that this hearing will reveal the truth and I also would like to thank the lawyers and in particular the

Section 27 for advising us and supporting us, because we really did not know how to go about this – we thank you very much.

**ARBITRATOR JUSTICE MOSENEKE:** Thank you – re-examination?

**ADV ADILA HASSIM:** Justice, I know we all are very tired – I just have one or two  
5 questions – very brief, just arising up from the cross-examination. Mrs Hlatshwayo referred to embalment that had taken place – that Avbob had performed on Sizwe's body and I, Mrs Hlatshwayo, I just want to confirm that I understood that correctly that Avbob said that they had embalmed Sizwe's body?

**JABULILE HLATSHWAYO:** We were told by Wynand at Avbob, Bronkhorstspuit,  
10 on the 4<sup>th</sup> of October, when we went to see the corpse.

**ADV ADILA HASSIM:** And, was there at any point consent from the family or family member to perform this on Sizwe's body?

**JABULILE HLATSHWAYO:** No, there was no consent – we were not even aware that they were going to do that.

15 **ADV ADILA HASSIM:** Thank you Justice, that is all from me.

**ARBITRATOR JUSTICE MOSENEKE:** Thank you very much Ma, we are grateful and thankful – all of us had said that - for you to be here and to share the pain with us. You are insisting on the truth – I heard you say that many times – we are going to try and we are trying every day and we have everybody's collaboration and I  
20 include the State in that to get to the truth. So, thanks will be part of the process of this arbitration and we are going to do our best to get there and to get the senior

people you have been talking about – you said you might find closure if they spoke – we are going to – all the parties are taking best endeavours to ensure that they come and testify.

**JABULILE HLATSHWAYO:** Thank you Justice.

5 **ARBITRATOR JUSTICE MOSENEKE:** You are excused, thank you. Before we adjourn Counsel – let me give it back to you – is there anything else that you would like to do today?

**ADV ADILA HASSIM:** There is nothing further from our side. Tomorrow we have one witness lined up and that is an expert clinical psychologist.

10 **ARBITRATOR JUSTICE MOSENEKE:** Yes. I know that the evidence leaders, who are expecting Prof Makgoba to be here tomorrow to hand in his final report on the tally. Nzame has that been arranged?

**LEGAL AID NZAME SKIBI:** Yes, he is coming.

**ARBITRATOR JUSTICE MOSENEKE:** So Prof Makgoba will be here tomorrow to  
15 give a revised report around the tally and he has indicated that tomorrow will be suitable? So he will be here tomorrow?

**LEGAL AID NZAME SKIBI:** Correct, [inaudible 2:09:08] confirms that.

**ARBITRATOR JUSTICE MOSENEKE:** And we also have the expert testimony and  
it will be convenient for you to work out in what order you are going to do it. He is  
20 going to be briefed as I understand, but if he is only going to be called later, he should come in the afternoon, but it is a discussion that Advocate Hassim and

yourself should have about what would be the optimal order – for the convenience of the witnesses, obviously.

**LEGAL AID NZAME SKIBI:** Thank you...

**ARBITRATOR JUSTICE MOSENEKE:** They are both very busy people.

5 **LEGAL AID NZAME SKIBI:** We will arrange with both witnesses Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Very well. The second issue about housekeeping – the expert witnesses that are going to be called in on the 30<sup>th</sup> of November and indeed this applies for all expert witnesses – I think they should qualify themselves through the normal course on paper first as they ordinarily  
10 qualify, with the Rule 26 notice. We don't have to give a formal notice, but we should at least – as we have now – we must have a summary of the evidence that they will be given in the normal course.

**LEGAL AID NZAME SKIBI:** That shall be availed Justice Moseneke, we have discussed about that during the [inaudible 2:10:29] the other day.

15 **ARBITRATOR JUSTICE MOSENEKE:** Yeah, it is just a more efficient way dealing with experts.

**LEGAL AID NZAME SKIBI:** Thank you Justice Moseneke.

**ARBITRATOR JUSTICE MOSENEKE:** And then, that seems to cover my issues – housekeeping issues. Is there anything that any of the Counsel would like to raise at  
20 this stage?

**LEGAL AID LILLA CROUSE:** Justice, might I just remember or remind the parties that there was an indication from the State that they were going to – in Chambers – see you tomorrow morning. So, we might not start on time, because I see it was set down for 09:30.

5 **ARBITRATOR JUSTICE MOSENEKE:** Also, that initial meeting will be 09:30?

**LEGAL AID LILLA CROUSE:** That is how I understand it – maybe we can just clarify, so that we don't have people waiting for us.

**ARBITRATOR JUSTICE MOSENEKE:** Yes, I have been alerted of the 09:30 meeting. I am quite ready and available to do so. Perhaps the witnesses should be  
10 set off at 10:00 at 10am, rather than to rush through at 09:30.

**ADV ADILA HASSIM:** Thank you Justice, we will make the necessary arrangements, thank you.

**ARBITRATOR JUSTICE MOSENEKE:** Is there anything else from any of the Counsel? Of the housekeeping time, before we adjourn?

15 **LEGAL AID NZAME SKIBI:** Nothing so far.

**ARBITRATOR JUSTICE MOSENEKE:** Very well, we meet tomorrow at 09:30 in my Chambers and we will start the hearing at 10am tomorrow. We're adjourned.

